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THE FUTURE RUSSIAN CONSTITUTION AS SEEN BY RUSSIAN LIBERALS

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In the historical development of individual nations revolutions come and go as tremendous earthquakes, upsetting the standing order and creating new constellations and configurations. After an earthquake on former plains new mountain ranges arise and, vice versa, enormous peaks suddenly disappear; quite so in the case of a revolution, which overturns century old institutions and organizations. At the time when the upheaval occurs, it often seems that the whole social structure is destroyed forever and that something entirely new is being created. And yet, everyone who has studied history knows very well that even in revolutions we have a constant evolution, that much of the old order remains and that the new institutions have many attachments in the past, no matter how completely new they may seem at the moment of their political birth.

Take the French Revolution of 1789 as a most vivid example. It might have seemed to contemporaries that the whole former French state and government, the social as well as the economic structure, had disappeared and were utterly destroyed. We know now, however, that much of the ancient French institu-

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tions remained and were the basis for further evolutionary developments.

There was a time when historians were very apt to magnify the glory of revolutions, prompted naturally by political motives; this was the case mostly with socialists and radicals, though the opposite method of villifying social upheavals is, perhaps, politically much worse. It entirely depends on the moral judgment, the individual investigation, what light is thrown on past events. However, human progress and the social development of nations follow a continuous evolution, regardless of the moral estimate of contemporaries.

One must remember that the judgment of many historians was warped by their political ideals; their statements, in consequence, were only too often biased. It is axiomatic, for instance, that an insurrection which fails is regarded as a disgraceful riot of criminals and rascals, and that one which is successful is called a revolution or war of independence by champions of liberty. In other words, nothing succeeds like success. No wonder Napoleon always chose exclusively successful men for the execution of his plans.

One must further keep in mind that any revolution means mostly destruction; and that only after the revolution is over does the constructive work, the building up of the new social or political order, begin. Menou said long ago: "*En revolution il ne faut jamais se mettre du coté des honnêtes gens—ils sont toujours balayés.*" And Chateaubriand, a representative of the conservatives, who suffered most, added: "*Les honnêtes gens ont toujours peur—c'est leur nature.*" It is perfectly true that the majority of honest people are always terribly frightened by revolutionary events. This is one of the many reasons why so little creative work can be done while the revolutionary upheaval is still in progress; fear is always coercive, repressive, conservative and constrictive, and never can achieve or create anything. But it is not at all true that the majority of the nation, the honest people, come back to work, after a revolution has taken place, without having learned anything. The fact that some of them have not forgotten the past is never dangerous,

as many of the new institutions created by revolutionary events generally find themselves firmly established after the revolution is over. Thus, one can be quite sure, that, no matter what government or system will evolve in Russia from the present state of anarchy and Bolshevik destruction, many of the new ideas have come to stay. I have no fear whatever for the so-called "winnings of the Revolution;" on the other hand, the former old régime of Russia is dead forever and cannot be resurrected.

The future fathers of the new Russian constitution will have a very difficult task ahead of them, much more complicated than the work of the American statesmen of the eighteenth century, for the conditions of modern Russia are much more involved and perplexing. One thing, however, seems absolutely sure: We all accept democracy as axiomatic; the present development of Russia gives us good reasons to think that there will be a firmly established democratic government. Russia's social body is very homogeneous; this is the best possible guaranty in this respect. Then, too, her economic development and the absence of plutocracy are sufficient safeguards for future democratic institutions; most political parties, also, stand for democratic ideals. The fathers of the Russian constitution will have to keep in mind that power, as such, is not good, nor bad, and that it is only the way it is used that makes it good or bad; and the way it is used depends entirely on the organization of the state and its organs and the guaranties the citizen will have for his personal life and freedom. We have many examples of how the use of power, when the necessary guaranties are lacking, poisons those who make use of it. The lessons of history, in this respect, will be very useful.

Though much of the preparatory work has already been accomplished, and most of the constitutional questions are constantly discussed in Russia, all the main questions of principle will have to be decided exclusively by a national assembly. Such a body alone can represent the will of the people, and be the sole lawful master of Russia. It is in a national assembly that the real sovereignty of the people finds its best expression.

For many generations the educated Russians were hoping for such an assembly to meet for the enunciation of the main constitutional principles, embodying the will of the nation. It was a tremendous mistake of the Bolsheviki to have dismissed by force the first national assembly which met in January, 1918; the Russian people felt extremely disappointed and are still bitter against the Bolshevik government for having done this. The explanation of this foolish act is simple: The Bolsheviki were forced to do this by their own principles and by their whole conception of government. Their main principle is the dictatorship of the proletariat, a hopeless minority of the Russian people. It was only too natural that they were afraid of the majority of the national assembly, which never would have acquiesced in their policy and with their program. They had to get rid of the assembly, which they did in their usual drastic way. The only good consequence of this act was that it increased the prestige of the national assembly, and made the nation long for a new one as soon as possible.

Questions of principles that will have to be settled by the national assembly all belong to the fundamental essence of constitution-making, with one possible exception, the land question. These fundamental questions are: the form of government; the distribution, balance and inner organization of the powers of state; the form of relations of Russia proper to the non-Russian nationalities, which once were a part of the empire of the Tsars; the rights and privileges of the church; and the national defense. To these we must add, as mentioned, the land question; it is so very important and involves so many serious problems, that nobody, except the national assembly, could solve it.

During the Bolshevik régime the peasants seized the land belonging to local landlords, as well as all the crown and state property. For many years previously there existed a great dearth of land among the peasants, which the old government hardly ever tried to satisfy, and certainly never succeeded in satisfying. As soon as the Bolsheviki came into power they redeemed their promise of land for the peasants, and complacently looked on while the latter took possession of all the land they

could get, incidentally burning down the landlords' houses, destroying the property they had no use for and often murdering the lawful owners. There cannot be any doubt, however, that a need of land really existed, and that it ought not to be taken away in the future from the peasants; otherwise, we can be quite sure, that in a decade or even sooner we shall witness a new revolution. The peasants at present have no legal right or title to their newly acquired land; it is only the national assembly representing the whole nation that can sanction such possessions. A complementary question is that of compensation due to the former landlords. In that case, too, only the national assembly has the right to decide if any compensation is due (personally, I think it is fair and necessary), in what form it could be paid (for instance by means of a government loan), and what the amount ought to be (per capita or per acre). The question does not belong to the domain of constitutional law, but can be settled only by the national assembly.

However, this ought to be the only exception. The assembly should devote all its time to working out a constitution, and as soon as the latter is ready it ought to dissolve and transfer all further legislative activity to the new parliament. If this procedure is not followed, the assembly will never be able to finish its work, because as soon as nonconstitutional questions begin to be discussed there will never be an end to it; gradually the assembly will drift into the work of a parliament and perhaps even substitute itself for parliament.

The fundamental constitutional questions can be divided into two groups: in the first one we find the three most important matters, concerning the form of government, the powers of the state, and the question of nationalities; in the second group belong the additional questions, for example, concerning the church and the national defense.

Many Russians consider now the question of the form of government of minor importance. We all know examples of monarchies which are much more democratic than many republics; for example, England. There are a number of republics which are less democratic than the British monarchy. The modern

development of England is quite astounding; the English people now accept with equanimity things which some four or five years ago would have seemed absolutely inadmissible even for a republic. It is not the head of state who in our day directs the policy of his country, but a responsible ministry, and the majority of the people do not pay any attention to his limited powers. It is more a question of psychology or of feeling of the nation.

At present in Russia just this feeling is absolutely uncertain; no one can ascertain how the Russian people, as a whole, will decide to solve it. The educated classes, without any doubt, whatever their personal preferences might be, will willingly abide by the desire of the nation; the will of the people will be formulated by the national assembly. This, possibly, will be the best example of the functioning of such an assembly. In either case, however, in choosing a monarchical or a republican form of government the assembly will have to decide not only on the question of principle, but simultaneously also on the method of selecting the head of state. If Russia is to be a republic, the assembly will have an easy task, simply choosing among the many examples of western republics. One may only suggest in this respect, that just as in the time of primitive American conditions of the eighteenth century a graded election was preferable, especially because of the illiteracy of the Russian people and the recent social unrest, so for a time, at least, a graded election of the Russian president would seem the better choice. Much more difficult will be the task of the assembly if it decides on the monarchical form of government for Russia. The finding of a candidate and the founding of a dynasty will be anything but easy. This can also be done only by the assembly, as the new monarch must receive the sanction of the nation.

After having settled this important matter the assembly will have to start to work on the future constitution, the organization of the legislative power, the reconstruction of the executive power and the revision of the judicial power. The two latter require less attention, as many of the old institutions could

remain, with some additional changes. The legislative power on the other hand, will have to be entirely reconstructed. The former Imperial Duma, especially after the reform of June, 1907, did not represent the people at all, and ought not to be revived in its old form, though the name "Duma" will certainly remain. It seems that a single Russian chamber would be most appropriate, especially if we consider the possibility of a future Russian federation, which will have to have a two house federal parliament. Under these circumstances one chamber for Russia proper will be entirely sufficient. Moscow is preferable for the seat of the chamber; the national assembly will certainly meet at Moscow. As to the future parliament there can be a choice between Moscow and Petrograd. One consideration, however, is most important: the parliament must be in the same city with the government, for there must exist the closest contact between them all the time.

Universal suffrage, woman suffrage included, is now generally accepted by Russian public opinion. Until recently there was some opposition to it, founded on the argument that universal suffrage would work badly in Russia considering the great number of illiterates; these latter, it has been pointed out, would be tools in the hands of corrupt politicians and political machines. This argument does not seem to hold, however, for two reasons: Limited or restricted suffrage does not *eo ipso* do away with corrupt practices; there exist many guaranties and institutions for the prevention of corruption at elections, direct primaries and publicity are, for example, the best of such means. Then, too, it would seem that Russian public opinion and educated people have for so many years stood for universal suffrage that they will not give it up at present. The conditions of illiteracy were worse in former days; every decade brings us a little betterment in this respect, and I do not see any reason to change our ideals now. Suffrage must be universal, equal, secret and direct.

Another question is, does this suffice or are new institutions also necessary, for instance, the popular initiative or referendum? Is there any need of introducing them also into the constitution,

and would not the illiteracy of the people prove in this case harmful? Opinion in Russia seems to be very much divided, and it is doubtful if these institutions will find a sufficient number of supporters. It may be pointed out that they belong to more firmly established and more developed constitutional systems than the Russian, and that a certain time ought to elapse before their introduction. The referendum is needed most on questions of principle, for ascertaining the will of the people; it is not often that such matters arise. There is also another important requirement for the good working of a referendum, namely, the relatively small size of the voting community; the larger the community is, the more uncertain results are produced by the referendum. In Russia the area will always be tremendous, no matter how the voting system is arranged. There is a much more important consideration, however, which would seem to point against the necessity of including this institution in the constitution: the national assembly will solve all the important questions of principle, and for some time there will not be anything left for a referendum. The constitution must be so constructed, that, though not including the referendum or the direct legislative initiative, it would leave open the possibility of their future introduction, when the nation will find it necessary. The other details of organization of the legislative chamber are the usual ones found in all modern constitutions, and do not necessitate special mention.

The constitution, most decidedly, ought to be of the rigid American type, and not easily amendable; this must be the case especially because there is every reason to believe that it will be a federal constitution. The more difficult the process of amendment is the more stable a constitution always is, provided that it is from the beginning well adapted to the social and economic surroundings. In that case, however, as in the United States, the courts ought surely to receive the power of deciding on the constitutionality of laws; this is a most important corrective and will work well in Russia.

At the head of the executive power there will be either a president or a monarch; but the real power will be in the hands of

a responsible ministry, composed of men who will have the confidence of the legislative chamber and will belong to the majority of the house. This is parliamentarism, pure and simple, as it exists at present in most European countries; England is certainly our best example. It is interesting to note in this respect that the socialists and radicals in many countries are now deadly opposed to parliamentary rule. The reason is easily found: this system of government is based on majority rule; whereas the socialists want a minority rule, the dictatorship of the proletariat, which is everywhere in the minority; and with the parliamentary system, they have no chance of establishing their selfish rule. This is also the case in Russia. There is no doubt that parliamentarism has many faults and drawbacks, but a modern state can hardly do without it and must only establish sufficient safeguards and checks to counterbalance such deficiencies.

The system of the Russian ministries, their inner organization and work will probably remain as of old. Even the Bolsheviki did not change much in this respect, trying to adapt themselves to the old machine. A single exception, however, must be noted here: some ministries (foreign affairs, war, navy and others) will have to become federal institutions, whereas others will be purely Russian. The different administrative branches developed historically and were well adapted for their respective purposes. The Russian civil service system worked on the whole also very well, with one exception, namely, the question of responsibility, which either was entirely absent or not sufficient. This great evil, however, was already remedied in 1917 by the provisional government, which introduced an elaborate system of administrative courts and started to revise the laws concerning the civil service. The new government will have only to take up the work where it was stopped by the Bolshevik uprising.

There might be a question, further, of introducing the modern idea of recall. This would concern, naturally, only the elective administrative officers, as Russians never applied this principle, even in theory, to the judges or courts of law. I do not think that this institution will find many supporters in Russia.

By far the most difficult problem, however, will certainly be the establishment of the future relations with non-Slavic nationalities, which once were a part of the empire of the Tsars, and have separated themselves from Russia under the Bolshevik régime.

There will be a most decided clash of principles and possibly an intense feeling of national suspicion, if not of antagonism. The small nationalities, bordering on the Russian state, have developed recently a very strong feeling of independence and all stand for national self-determination. There cannot be any doubt that much of this is due to the mistaken policy of the former autocratic government, which never wanted to concede self-government to the different nationalities. Then came the German propaganda. Germany very cleverly made use of the already existing animosity; in order to weaken the Russian Empire the Germans diligently spread a poisonous propaganda, and helped to fan the flames of national conceit. Finally in addition to these two factors came the Bolshevik upheaval, with its devastation and plunder, which totally estranged the small nationalities from the Russians; the non-Slavic peoples did not see much difference between the Bolsheviki and the Russian people at large, and accused the whole nation of the misdeeds of the Bolshevik government.

All this has helped to create a strong movement of disintegration, which ruined the Russian Empire. In addition, we must mention the faulty policy of the Allies and especially of England, towards the peoples bordering the Baltic Sea, which helped to foster unreasonable hopes among these nationalities. One must keep in mind that Russia has some very vital interests involved in the question; for example, there is the question of Russia's national defense and strategic fortification of her frontiers; then, too, Russia's Baltic fleet cannot exist without having at its disposal well protected harbors; further, there is the question of protecting Russia's frontiers against any enemy attack, and against the enemy's using some of the territory belonging to the small nationalities for deployment of an army against Russia; Russia must have, too, a free access to the sea for her

export trade; and, finally, she must have sufficient guaranties that the foreign policy and diplomacy of the smaller nationalities would not in any way harm Russia, in concluding, for instance, some offensive and defensive alliance, and so forth.

The difficulties of the situation are further increased by the tremendous development everywhere, I might say all over the world, of national self-consciousness, which in our day seems not to know any limits, and in so many places has developed harmful consequences. The greatest evil of our times is this perverted, thwarted and unsatisfied nationalism, which has cropped up in so many countries as one of the most pernicious consequences of this terrible war. There certainly will be much suffering, quarreling and bickering before things settle down in this domain; the greatest sufferers will unfortunately be the smaller peoples, whose size and weakness will always be their greatest handicap.

There is no doubt whatever that the best outcome for Russia is a federation. The establishment of this, however, will not be an easy task. Such work will be far more difficult and complicated than that performed by the fathers of the American Constitution, and this for two main reasons: first, because the social, economic and political conditions of the present day are much more complex and involved; and, secondly, because Russia evidently cannot be satisfied with a federation of the American type. The non-Russian nationalities, which might join such a federation, all have very different requirements and are not at all homogeneous; equal conditions for all of them will be quite impossible to establish. Just as in the British Empire, some of them will ask for nearly full independence, Russia only protecting her strategic and diplomatic interests; whereas in other cases simple self-government will be entirely sufficient. Thus, the only possible chance of success lies in the adoption of a plan of federation of the British type, where the scale goes all the way from practical independence (Canada or Australia) to protectorates (Egypt or the Crown colonies).

With each of these nationalities, Russia will have to conclude a separate agreement or understanding, safeguarding the inter-

ests of both sides. On the Russian side, this can be achieved only by the national assembly, for no other body will be able to speak in the nation's name and bind the latter to such an agreement.

The skeleton of such a federation will be as follows: There should be a federal parliament, parallel to the Russian chamber, composed of two houses of the American type, a lower chamber, representing the people, and an upper house, representing the states. The competence of this parliament will be strictly limited to federal questions, enumerated in the constitution.

The head of the state or chief executive will be either elected (if president) or chosen (if monarch) by the people of the whole federation; he ought to be simultaneously the chief executive of Russia proper, and will have also powers strictly limited by an enumeration in the constitution. The federal executive power will comprise the following branches: The foreign office, the war and navy departments, the treasury and commerce departments (these two latter branches will direct the federal fiscal and economic policies, including federal taxation, federal customs and federal currency), and a department of justice, with an attorney-general at its head. The latter will be the government's law expert and also handle all federal matters arising between the states; the federal interests will be looked after by special representatives (for example, governors-general) subordinate to the attorney-general. The federal ministers and the attorney-general will be the cabinet, responsible to the federal parliament.

Finally, there will exist federal courts, which will have the right to examine the constitutionality of all legislation, federal as well as local.

In conclusion must be mentioned a few questions, less important from the point of view of principle, which the national assembly will also have to settle. First, the question of the relations of the church to the state; a well drawn line of separation between the two seems most likely and best suited for Russia, though the orthodox church might receive some form of support from the state. Secondly, the question of the army; namely, must there exist a volunteer militia or a regular army

composed on the principle of general service of all citizens? The latter seems much more appropriate to Russian conditions. Finally, there might arise the question of nationalization of certain industries and railroads; in that case, also, the national assembly certainly will be the only judge. Personally I think that such nationalization is quite out of the question at the present moment. If such countries as England or the United States, with their highly developed industries, are still in doubt as to the feasibility of their nationalization, there cannot be any doubt at all in Russia, whose industrial development is yet so primitive. The Russian state is much too young, unstable and unorganized to be able to undertake such a huge task as the running of national industries. With the railroads the case might be a trifle easier, because in former times the Russian state owned many of the railroads; the latter will probably remain in the hands of the government, but this ought not to mean the nationalization of all the railroads and the cessation of private enterprise.

SOME PHASES OF THE FEDERAL PERSONNEL PROBLEM

LEWIS MAYERS

An observer who had much to do with the departments at Washington once remarked that the whole philosophy of rank in the government service was unsound. Anyone, he reasoned, could be the head of a department; to be the head of a division was much more difficult; while the office boy must be a real diplomat. There is doubtless much of truth in this view; and it may perhaps be pleaded in excuse of the habit which discussions of the federal personnel problem seem to have developed, of beginning (and, not infrequently, also ending) with the case of the government clerk.

Nevertheless, it is to be questioned whether the government clerk, or the subordinate personnel of the administrative services of the government generally, presents nearly so difficult a question as does the directing personnel. By and large, doubtless the most immediate problem of the federal personnel system today is to secure in the posts of responsibility and discretion a capable type of administrator.

In this view, logically the first item to be considered in a discussion of the federal personnel problem is the method of selecting the chief of the administration—the President; and, next in order, the method of selecting the chiefs of the executive departments—particularly, the chiefs of the predominantly administrative departments—post office, war and navy. Since the President must necessarily be chosen on political and not administrative grounds, and give his main attention to political and not administrative matters, assurance of the capable discharge of his administrative functions can obviously be had only by the creation of a central organ of administration to act in his name on all but the most important of administrative matters;

and if the members of the cabinet are to continue to be chosen primarily as political advisers, assurance of the proper discharge of their administrative responsibility can likewise be had only by the creation in each of the departments of a nonpolitical administrative deputy of experience and proved capacity. To examine possible methods of effecting these proposals would, however, require so lengthy a discussion, and would lead so far afield into political questions, that it must be omitted from this paper, and attention given to those ranges of the directing personnel which are free from all political complication.

With respect to the upper ranges of the directing personnel, at once the simplest and most necessary measure for improving the administrative calibre is the complete elimination of politics in their selection. At present the hold of politics on the higher administrative posts of the government is very irregularly distributed. It is most uniform in the group of assistant secretaries (which embraces also, of course, assistant attorneys-general and assistant postmasters-general). All, as is well known, are political appointees. In not a few cases, they are quite capable; but the method of their selection affords no continuing guaranty of their capability, nor does it insure the retention in office of those whose capability is established.

The heads of the several bureaus and services are only in part political appointees. The increase in the number of scientific bureaus in recent years has steadily enlarged the number of bureau chiefs who, originally selected solely for their professional standing, hold office virtually on good behavior though nominally removable at the pleasure of the President. Of the 44 heads of bureaus and services, about 25 now fall in this nonpolitical class.[1] Of the remaining 19, the status of 5 is not yet fixed by tradition; while that of the other 14 is definitely political. Of these, as of the assistant secretaries, some are of satisfactory administrative calibre; but as with the assistant secretaries this fact is, if not fortuitous, at least incidental. The placing of all the bureau heads upon a strictly merit basis is an obvious immediate need of the service.

[1] Of these, 10 are appointed by the heads of the department.

In the departments at Washington political appointments in the ordinary sense do not usually extend below the heads of the bureaus or services, though here and there are found "excepted" places for which no good reason exists, and which a vigorous civil service commission would long since have had swept away by the President.

As applied to local offices the viciousness of the spoils system has been much more pronounced and obvious than in the case of the posts at Washington. The local posts are far greater in number and are spread over the whole land, and in the smaller places are likely to be captured by an obviously undesirable type of ward politician, rather than by the more unctuous type usually selected for the political post at Washington. Moreover, the local employee has a vote, while the Washington employee has not (or does not use it); and it is therefore especially undesirable that the local competitive employee should be under the direction of a local politician.

Until within recent years, it was the postmasters of the smaller cities and large towns who typified the local federal political officeholder. For some years a general improvement in the calibre of this class of postmasters appears to have been going forward; but the first definite formal step in the direction of eliminating politics from their selection was taken by President Wilson in his order of March, 1917, directing the civil service commission to hold open, competitive examinations for all vacancies in presidential postmasterships arising by death, resignation, or removal, and binding himself to the nomination of the candidate rated highest unless good cause should appear for passing him over in favor of the next on the list. The "presidential" postmasterships, it should be explained, are all those in the first, second and third classes—that is, all whose annual sales are $1900 or over. It thus embraces all but the small village offices. There are some 10,000 "presidential" post offices and under the law all must be filled by nomination of the President and confirmation by the senate. The enormous scope of this order of President Wilson's is thus obvious.

It should be understood, however, that the order has no application to a vacancy created by the expiration of the four-year term which the statutes prescribe for all presidential postmasters. The official explanation for this omission is that capable postmasters are reappointed at the expiration of their four-year terms, and hence no examination is necessary; while where other postmasters are removed before the end of their four-year terms, examinations are held under the order. Is this the real reason or merely the good reason? Is the real reason that the exclusion from the operation of the order of vacancies arising by expiration leaves a comfortable margin of postmasterships in each state in which senatorial courtesy may still disport itself? The gratuitously detailed statistics of the operations of the department, published in its annual report, throw no light on this question.

The shape of the area still dominated by politics in the remaining field services is, as in the departments at Washington, irregular. Some of the important field services are wholly under the merit system; in others, the chief of each local office is a political appointee. Generalizing, it might be said that in the newer and the more technical services, the local chiefs are selected by merit, while in the older and the more purely administrative services they are political appointees. Examples of the former class are the reclamation service and the forest service.

The principal services in which the chief local officers are still political appointees are: the customs service, the internal revenue service, the mint, assay and subtreasury services, the department of justice (embracing district attorneys and marshals), the public lands service, and the immigration service.

Such is the present state of the art of rewarding one's friends in the higher levels of the federal administrative personnel. What is the best method of attack for those who would see politics completely and finally driven out of the federal service?

The frontal attack would consist, of course, in abrogating the "advice and consent of the Senate," which is by statute required for virtually all the posts just reviewed. Such a change would place all these posts within the scope of the civil service law; but

it would not necessarily throw them open to competition, as, under the law, the President might still except them from examination (as he has done, for example, with national bank examiners). Going a step farther in the same direction, it would be well to provide for the appointment of all these officers by the heads of the several departments instead of by the President. Appointment by the President carries a deep-rooted tradition or flavor of politics which of itself constitutes a tangible obstacle to the establishment of the merit principle.

Such legislation should, of course, be accompanied by provisions for the abolition of the four-year term (or other fixed term) wherever it still obtains. The four-year term for local officers is today a senseless survival of a practice thoughtlessly legislated into existence at the beginning of the government for the office of marshal, and subsequently from time to time extended to other local offices. The utter inconsistency of its present statutory application should of itself be sufficient to condemn it. Collectors of customs are appointed for a four-year term, but collectors of internal revenue for an indefinite term. It is a good example of the lack of principle and sound policy which has throughout characterized the personnel legislation of Congress.

It cannot be contended that the mere abolition of the four-year term will of itself tend to convert the posts affected from a spoils to a merit basis. It is notorious that some positions held by an indefinite tenure are fully as much the plaything of politics as are those held for a fixed term; but it is certain that the merit principle cannot firmly be established in any administrative office so long as it rests upon a fixed term. The action of President Wilson in opening postmasterships to competition is much in point here. So long as the four-year term remains it will be difficult to induce experienced and capable postal employees to enter the examination; for the chance of reappointment at the expiration of the four-year term depends wholly upon the observance by the next administration (or even by the same administration, should it remain in office) of a "policy" declared by it to exist but subject to no rule or official scrutiny.

The abolition of the four-year term for local offices is clearly then a measure upon which all may unite. As for the rest of the legislative program outlined, questions may be raised. The abolition of senatorial confirmation, and the transfer of appointing power from the President to department heads would be so radical a step and so distasteful to politicians, particularly those of the senate, that legislation embodying it could be obtained, if at all, only by a highly organized and costly propaganda sustained over a considerable period. Such legislation was actually recommended to Congress by President Taft in two successive messages, but never made any real progress in Congress; and neither the repeated recommendations of the civil service commission nor the persistent though limited publicity of the National Civil Service Reform League have served appreciably to increase the probabilities of enactment. Undoubtedly, such a legislative program could be forced through; but the forces necessary to accomplish the work of forcing do not seem likely to materialize.

A line of action which would seem to have greater promise of results is to bring pressure persistently to bear upon the President to extend the merit principle to all of the offices in question, as he already has to some; setting up, as far as practicable, formal methods of selection, as has been done in the case of the consular service and the presidential postmasterships. In thus looking solely to the President for action, there is involved no attempt to ignore Congress or the senate contrary to existing constitutional or statutory provisions; for, aside from the inherent discretion as to method of selection, which the possession of the power of appointment vests in the President, it has been the law since 1871, twelve years before the enactment of the civil service law, that the President may "prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate for the branch of the service which he seeks to enter."

Once the President can be induced to set up a formal recognition of the merit principle in his nominations to these offices,

"the advice and consent of the Senate" will become as perfunctory a ceremony as it has for decades been in the case of the commissioning of army and navy officers, or surgeons of the public health service. Under President Wilson's order of 1917, there have to date been nominated, as a result of open competitive examination, some 1400 postmasters. Aside from a few exceptional instances where the question of whether the procedure required by the order and the regulations had been observed, in no single case has any senator ventured to oppose the confirmation of a nomination so made.

It may be thought that a system resting on executive order is less stable and secure than one resting on the mandate of the civil service law. Examination hardly confirms this view. Even were the positions under discussion to be brought, through the abolition of senatorial confirmation, within the scope of the civil service law, the determination of the method of their selection (including the question of whether competition or examination should be employed) rests wholly in the hands of the President. The only qualification is that if examination is provided it must be carried on under the supervision of the civil service commission. This requirement is indeed something of an objection to the classification of the higher administrative offices under the civil service law; for it is more than doubtful whether examination under the supervision of the civil service commission would be the best system of selection for those offices, so far as they were not filled by promotion. Time does not permit a discussion of various alternative methods of selection, some of them hardly yet tried, which might be applied to the higher administrative posts.

. . . . The problem of selection for these posts is, of course, immensely simplified if they are filled by promotion from within the service, rather than by selection from outside; and in a healthy personnel system promotion will always be the normal method of filling these posts. It may be questioned, however, whether the time has yet come in the federal service, were all the higher posts put on a merit basis, where all could with certainty be filled as satisfactorily by promotion as by selection

from outside. That condition normally exists only where promotion to the top has long been the rule in the service, and has thrown back its influence even to the process of recruitment, resulting in the entrance of more capable men into the service to begin with, and their retention in the ranks of subordinates and minor executives until the time for major promotion arrives. In many branches of the federal service the opportunity for promotion has been so limited that the personnel most suitable for major promotion has never entered the service, or entering, has not remained. It is for these reasons that the rigid application of the wholly sound canon that all posts, even the highest, should be filled by promotion, is not practicable at the present time throughout the federal service.

With respect to the local officers, one further change is necessary. In some of the field services, there is no requirement or even tradition that the local chief shall be a resident of the state or district in which his duties lie. In most, there is no legal requirement, but there is a strong tradition. In a few, there is a statutory requirement. Thus a collector of internal revenue must be a resident of the collection district to which appointed.

The requirement of local residence, whether statutory or traditional, is, of course, closely associated with the treatment of local offices as spoils. It is not found in any of the newer and technical services in which the selection of local chiefs is wholly on a merit basis. It has obviously no relation to and no origin in the demands of efficient operation. If finds no counterpart in the industrial world. It is a survival of the political as opposed to the administrative tradition in the filling of administrative offices.

With the selection of the higher administrative officers solely on a merit basis, and the abolition of all fixed terms and residence requirements for local officers, the political factors which now complicate the problem of securing an efficient directing personnel will have been eliminated and the problem will become almost wholly, as is the problem of the subordinate personnel, a technical one—a problem of personal management.

The technical problem of personnel management presents two phases—what might be termed the substantive and the adjective. What are the working conditions, in terms of compensation, opportunity for advancement, social esteem, and attractiveness of work, that the service offers? This question is basic, and unless it is satisfactorily answered, no amount of administrative machinery can save the personnel system from failure. Once it is answered, the question arises as to the machinery and procedure to be employed for applying in detail the principles thus defined. Here are presented questions which, if less basic than the other, are more difficult of satisfactory solution. The limitations of this paper will not, of course, permit even the mere statement of the problems—even the major problems—which arise under each of these heads. A brief indication of two or three of the larger aspects is all that can be attempted.

Before entering upon a consideration of the specific problems affecting the subordinate personnel of the government, it will perhaps be as well to call attention to the grossly exaggerated importance which is attached, in current popular thought, to the case of the government clerk, and more particularly of the government clerk at Washington. Unfortunately, there are available no recent figures that will indicate with precision the proportion and distribution of clerical employees in the service. Figures bearing on this point were compiled in 1907, and while the federal service has enormously expanded since then, it is safe to assume that there has not been any substantial change in the relative proportions and distribution of the various classes of employees, clerical, mechanical, labor, professional, etc. The 1907 figures show that, if the postal service, which is of course in a class by itself, be excluded, the clerical employees of the government number less than 20 per cent of the whole, being outnumbered by the mechanical employees, who comprise some 28 per cent, and being less than half as numerous as the subclerical (that is, messengers, watchmen, etc.) and labor employees, and less than twice as numerous as the professional, technical, and scientific employees. It is true that the figures from which these percentages are derived embrace the war and

navy departments, with their arsenals and navy yards employing the greater proportion of the mechanical employees above noted as comprising 28 per cent of the whole. Even if these two departments be excluded from consideration, however, the clerical employees will be found in the 1907 figures to be considerably under 25 per cent of the whole, with the professional employees about 13 per cent, mechanical employees about 7 per cent, and the subclerical and labor employees over 45 per cent. No thought regarding personnel problems is of value which concentrates itself too exclusively upon the problems of the clerk, and omits from consideration the large and more rapidly growing class of professional, technical and scientific employees, the enormous mechanical and labor forces, and such miscellaneous employees as are found in the coast guard, in the hospitals of the public health service, on the irrigation projects, on the Indian reservations, in the lighthouses, and so forth.

In the basic matter of adequate compensation, the cardinal difficulty has been the apparent tendency of Congress, inherited from the days of the spoils system, to regard the federal employee as a feeder at the public crib—entitled to no sympathy to begin with, and still less when selected by procedures in which congressmen have no participation. This tendency has fortunately weakened in recent years. A second factor is the helpless position in which the average employee finds himself after some years of service. Frequently he has no alternative but to remain in the service, though grossly underpaid when judged by any fair standard. Since entrance rates have generally been sufficiently high, and in some cases even generous, there has been little difficulty ordinarily in recruiting the service.

At bottom, however, the current situation, which is, as is notorious, characterized by absurdly low rates for the higher technical and supervisory posts (as illustrated by the fact that the engraver of the bureau of engraving and printing, whose salary is not fixed by Congress, receives a salary measurably higher than that fixed by law for the director of the bureau) is the result of the total failure of Congress for the last half century or more to make any attempt at a consistent, careful and

comprehensive determination of equitable compensation rates. Ignoring the repeated urgings of the civil service commission and the employees' organizations, and the plainest dictates of administrative practice, it has left the determination of rates wholly in the hands of the several appropriation committees, each interested only in particular appropriations and none of them having any especial interest in the general problem of the federal personnel. Indeed, in neither house of Congress does there exist a committee charged with responsibility for the advancement of a comprehensive and progressive personnel program for the administrative branch of the government.

The creation, by the act of March 1, 1919, of a joint commission on reclassification of salaries (applying only to the departments at Washington) and the creation, by act of February 28, 1919, of a similar commission for the postal service give promise that a new order is beginning. Both these commissions are limited by the terms of the acts creating them to an investigation of compensation rates only, but it is probable that both will, in their reports, emphasize the need of the development of a program embracing all phases of personnel administration.[2] With reference particularly to compensation, experience seems to demonstrate that not until there has been established an administrative agency, specially charged with continuous current supervision and control over matters of compensation rates, can the fundamental and permanent rectification of existing conditions be expected. The personnel of Congress, the nature of its committee system, and the procedure of the several committees themselves, all militate against any consistent or well-worked-out personnel program, particularly in respect to matters of compensation.

Closely related to the problem of adequacy of compensation, but entirely distinct from it, is the matter of uniformity of

[2] Since this paper was written the joint commission on the reclassification of salaries has rendered its report (March 12, 1920, H. Doc. 686, 66th Congress, second session). As expected, the commission recommends not merely a complete revision of salary rates, but the formulation of a comprehensive personnel policy and the creation of a central personnel agency with adequate powers.

compensation. Compensation may, generally speaking, be adequate throughout the service, and yet there may exist a large number of specific inequalities of compensation for the same or similar classes or grades of work. Such inequalities exert a depressing influence upon the morale of the personnel far in excess of their mere number or the seriousness of the injustice actually worked by them. In view of what has been said of the method by which the present compensation rates in the federal service have been developed, it need hardly be stated that flagrant inequalities in compensation are found throughout the federal service, and more particularly in the clerical and technical services at Washington, where the nature of the duties does not lend itself so readily to obvious classification as in the case of most of the field services. The work of the joint commission on reclassification of salaries will, of course, include also an attempt to rectify these inequalities, though the problem is one of extreme difficulty because of the adverse effect upon numbers of employees of long standing that such a program necessarily involves if rigidly adhered to; while, if exceptions to the general scales arrived at are permitted to any great extent, the entire work is, of course, jeopardized. The consistent solution of this phase of the problem can be effected only by a permanent administrative agency exercising current control. With such an agency in operation a substantially complete rectification of existing conditions could probably be accomplished in less than a decade.

Opportunity for advancement ranks, of course, with adequacy of compensation as a major factor in determining the attractiveness of the service. Obviously, the opportunity for advancement in the federal service would be substantially enlarged, and in a most attractive way, were the higher supervisory posts placed upon a merit basis, as urged in preceding paragraphs; for, even from the first, and increasingly as the system established itself, those posts would normally be filled by promotion from within the service. It is, however, easy to exaggerate the importance of this factor in enlarging the opportunity for advancement, and such exaggeration is quite common in discussions having for their theme the development of the federal service

as a career. The possibility of reaching the very highest posts is undoubtedly of high value in its effect upon the morale of the most ambitious and able members of the service. But on a cold calculation of probabilities it is, of course, relatively immaterial to the average postal employee, for example, whether he may or may not be eligible to a post of assistant postmaster-general; and even in the post office of a large city it is at best of but secondary importance to the average postal employee whether the line of promotion open to him runs, as now, to the rank of assistant postmaster, or whether it embraces also that of postmaster. This much is said merely by way of counterweight to the emphasis which discussions of the question commonly place on the other side. There is no disposition to minimize the extreme desirability from every standpoint of placing the positions referred to on a merit basis with promotion from within the service as the accepted method of selection.

There are other factors affecting the degree of opportunity for advancement which are not so well recognized, but which, from the standpoint of the run of employees, are probably of greater importance. Space forbids more than a mere mention of these. The extent to which the higher positions in one branch of the service are filled by promotion from another branch (rather than by selection from outside the service), when there is no suitable personnel available in the same branch, is one of the most important of these factors. Similar to, but clearly distinguishable from this factor is the extent to which transfer is permitted from one local office to another within the same branch of the service. Still another factor is the procedure in force for retiring superannuated personnel; if such retirement be prompt and universal, the opportunities for the younger personnel are obviously greatly enlarged; the rate of advancement, not merely to the positions formerly occupied by the retiring employees, but throughout the service, is immensely accelerated. Finally, opportunity for advancement within the service depends, in a measure, upon the opportunity which exists for entering employment outside the service. The greater the extent of such opportunity, and the more frequently availed of, the more numerous will, of

course, be the resignations in the higher ranks, creating opportunities for advancement for those below. From this standpoint the resignation of employees in the federal service to enter other fields, if kept within reasonable limits, and if not confined to the ablest men of the service, is by no means an unmixed evil.

In considering the problem of how the opportunity for advancement in the federal service may be enlarged, the fact must never be lost sight of that there are serious natural limitations to what may be done in this direction. Discussions of this subject frequently seem to run on the implicit premise that the opportunity for advancement may be almost indefinitely enlarged by proper administrative policies and methods. It needs but slight examination, however, of the actual work processes involved in the functions of the several federal services to compel an appreciation of the fact that the quantity of routine, specialized, regimented operations required is so vastly in excess of the creative, executive or other individual activities, that for the great mass of federal employees, as for the great mass of industrial workers, there can be no prospect of even ultimate ascent to posts of even intermediate responsibility and importance. For the great mass a long future in the federal service cannot, in the nature of the case, offer anything worthy to be called a career. The best that it can hope to offer is security, adequate, and, within fairly narrow limits, increasing, compensation, and the sense of useful work faithfully done.

In this view one solution of the problem would seem to lie in encouraging, rather than discouraging, a point of view which looks at the routine employments of the federal service as a temporary episode in occupational history. There are some attractive possibilities in what might be done were this view officially adopted and the employment program for those parts of the service affected consistently worked out in accordance with it. The rapid growth of the employment of women in the routine work of the government, greatly accelerated by the war, is indeed by way of bringing this condition to pass over a large area of the service, regardless of theory; as despite numerous exceptions, and despite the growing tendency of married women

to seek employment, substantially the larger part of the young women employees added to the government forces in recent years do not look upon it as a permanent employment.

Despite the emphasis laid above on the natural limitations which exist in the matter of providing opportunity for advancement for the run of employees, it cannot be too strongly insisted upon that within those limitations the rate of advancement is very largely determined by the administrative policies and practices adopted with respect to the factors affecting opportunity which were enumerated. For the failure to adopt or make provision for such policies and practices, the primary responsibility must again rest upon Congress. Its flagrant failure to provide a retirement system for superannuated employees is a matter of common notoriety. Similarly, wherever it has by legislation attempted to regulate matters of transfer, salary increase and other factors affecting promotion, it has almost invariably enacted provisions dictated by the cheeseparing economy of appropriation committees, rather than by any broad-gauged view of the needs of the personnel system. A measure of responsibility must fall also upon the civil service commission. It has unquestionably failed to realize the full opportunity, presented to it in the exercise of its power to regulate the methods of filling positions, to work out such lines of promotion and such plans for preference, in the filling of newly created positions, to employees already in the federal service, as would substantially have enlarged the opportunities for advancement in a great number of cases.

Not only, however, have opportunities for advancement in the service been far less numerous and varied than could have been produced by wiser legislation and administration, but even so far as they have existed, the system of advancement has been in many of the services highly unsatisfactory. The lines of promotion have not been defined so that the employee might enter with a fair degree of assurance as to what the opportunities before him were. In the actual selection and designation of employees for promotion there have been inadequate safeguards against favoritism and arbitrary action. With insignificant

exceptions the civil service commission may be said to have ignored the potential control over the promotional procedure awarded it by the civil service rules. Without attempting here to go into the difficult question of how far and in what way the civil service commission might usefully attempt to exercise a control of this character, it should be emphasized that in the development of a well-defined and well-administered promotional system lies one of the major problems of the federal personnel system which has as yet received but scant attention.

Aside from adequacy of compensation and opportunity for advancement, the chief factor in determining the attractiveness of the service is doubtless the social esteem which attaches to it. This is, of course, in a measure the product of the other conditions referred to; but it depends also on additional factors, perhaps the chief of which is the prevailing estimate of the efficiency with which the work of the government is accomplished. The operations of the government are so multifarious, and the degree of efficiency prevailing in one branch of the service or another will inevitably be so unequal that no current estimate on this head can be at all accurate. But a general estimate does and will exist, and it must be the study of those who seek to improve the status of the federal personnel to see that this estimate is as favorable as possible. Needless to say, the most patent factor in this direction will be the actual improvement and intensification in the efficiency of the government's work. The problem of personnel is, of course, but a part of the general problem of securing greater efficiency in the administration of the government; but from this standpoint the positions of the two problems are reversed, and the general problem of efficiency in the federal government may be regarded as a phase of the problem of securing and retaining an efficient personnel. The promotion of all measures looking to a fundamental improvement in the business methods of the government, particularly the adoption of a budget system and the revision of the administrative structure of the government, thus becomes an essential item in a comprehensive personnel program.

It is to be questioned, however, whether any merely administrative arrangement can suffice to raise and maintain the management of the federal business at a level of efficiency as high as that which is secured in the general run of large industrial organizations by the imperative necessity of making profits and the incentive which the management has to make them as large as possible. For a substantial proportion of the federal personnel, both directing and subordinate, no such necessity or incentive is required—the instinct of workmanship is of itself sufficient to stimulate the best and most conscientious efforts. It cannot be denied, however, by one familiar with conditions in the federal service that over large areas of the service such idealistic incentives are hardly existent. Everyone who studies the federal personnel problem with any attention is thus brought to speculate whether it would not be possible to introduce at least over large branches of the service an incentive to productivity in the shape of piece work and bonus systems of payment, and in some establishments, as perhaps in the post offices and arsenals, in the shape of a system of periodic rewards for general service efficiency, corresponding to the dividends of profit-sharing industrial concerns. This is as yet virgin soil, but in it may yet be found and developed devices and methods which may go far towards solving some of the problems of federal employment and of public employment generally.

Such are the main problems which must be worked out if the development of the federal personnel system is to keep pace, or indeed even to catch up with, the enormous development in administrative responsibility and operations which the federal government is experiencing. How is this development to be effected? Nothing can be clearer from the history of the federal personnel administration than the utter incompetency of Congress, by ordinary current legislative methods, to achieve a satisfactory solution of these problems and to effect the innumerable current adjustments and accommodations which are involved. Only an administrative agency, continuously and exclusively occupied with the problem of personnel and vested

with powers adequate to its responsibilities, can in any degree meet the needs of the situation. The last is of the first importance. Congress has not hesitated to vest in the hands of an administrative commission complete control over railway rates and practices, but with characteristic perversity it has jealously guarded in its own hands a control over the many minutiae of federal employment conditions. The willingness of Congress to devolve large powers over the control of personnel upon a properly qualified administrative agency is the *sine qua non* of a proper development of the personnel system.

Historically, the civil service commission has been an agency set up over against the operating departments to check the unregulated discretion of the appointing officers, particularly in respect to appointments, and to investigate and cause to be punished all infractions of the law and rules designed to prohibit political activity by, or the solicitation of political contributions from, employees. Both these functions must continue to be exercised, but far from being the sole functions of the commission, they should be subordinated to its constructive functions. More and more the commission has come to demonstrate its value, even to the best intentioned and most zealous of administrative officers, as a recruiting agency of an efficiency far surpassing that which could be attained by the several departments and services themselves. It must now demonstrate equal service ability in assisting the departments in making promotions, in finding suitable men in other departments to be transferred to vacancies, in enlarging the opportunities for promotion in the departments, and in assisting the departments in the development of helpful methods of personnel management generally.

Successfully to accomplish these functions the present organization of the commission, in which the commissioners are appointed by the President and are entirely cut off from and set over against the departments, must give way to an arrangement in which the several department heads and service heads secure a large measure of representation and have a voice, and doubtless, too, a vote, in the formulation of the large personnel poli-

cies of the government. Hardly less essential to the solution of the major problems with which such an enlarged and representative agency would be confronted is the provision of adequate representation for the employees themselves. As is well known, the organization of the federal employees into unions has proceeded apace in recent years, and if present tendencies persist, it will be a matter of only a few years when the federal service will be substantially unionized. Without exception these unions disclaim, and with all sincerity, any intention to employ the strike method. They are thus remitted to the employment, on the one hand, of persuasion (including an appeal to public opinion, and to the fairness of Congress and the chief executives of the government), and, on the other hand, to alliance with the organized labor movement with a view to securing their coöperation in electing congressmen who will favor the cause of the federal employee in Congress, or, what is much more frequent, in defeating those who have earned the hostility of the employees. Such a development has already manifested itself in several cases, and time is not distant when a congressman coming from a district where organized labor is a factor will oppose the wishes of the employees' unions at his peril.

One may possess a full sympathy with the condition in which the federal employees find themselves and with their attempts to improve their condition by organization, and yet see in this a development undesirable from every standpoint. The problems involved are, for the most part, administrative and not legislative, and should have never come within the province of a congressman to begin with. They should come before a body so constituted as to be impervious to political considerations, and enjoying the confidence of the public, the employees and the executive officers.

But a central agency alone, however representative and powerful, must always be inadequate to solve the never-ending stream of problems which issues from the administration of so large and diversified a personnel system as that of the government. The central agency must rest upon a wide base of personnel officers and boards, constructed on similar and harmonious

principles, in the several departments, bureaus and field establishments. Hitherto, with negligible exceptions, personnel administration in the federal service has been regarded as a mere incident of operating administration. It must come to be recognized throughout the service, even down to its minor divisions, as a separate function, subservient to operation, in truth, but having its own distinct purposes and prerogatives. Until this condition is realized all improvement in legislation and in the organization of central personnel agencies will be little more than a gilding of the apex of the pyramid while the base remains in the shadows.

POLITICAL GEOGRAPHY AND STATE GOVERNMENT

W. F. DODD

Little attention has been devoted in this country to political areas and their relationship to each other. Not much is to be gained from a theoretical discussion of this subject, and this article is based upon a detailed study of conditions in Illinois. Similar problems present themselves in every state, although the details vary in different parts of the country, and the effort is made here to bring out the general issues involved, using the conditions in a single state as the basis for discussion.

Attention should at the outset be called to the fact that the situation is complicated by the fact that this state has but one great city. The position of Chicago and Cook County constitutes one of the serious political problems in connection with reorganization of state and local government.

LEGISLATIVE AREAS

Areas for legislative and congressional representation demand first consideration in this discussion. Before 1870 there were in Illinois, as there are still in most of the states, two sets of districts for representation in the state legislative body. In the legislative apportionments in Illinois before 1848, the practice was generally observed of keeping the smaller districts for representatives within the limits of the larger state senatorial districts. That is, the apportionment schemes resulted in general in the avoidance of the crossing of lines as between the larger and smaller areas of state legislative representation. Under the apportionments of 1848, 1854 and 1861 in Illinois, no efforts were made to keep the smaller representative districts within the limits of the larger senatorial districts, and there were two series of districts substantially independent of each other in territorial area.

In order to develop a permanent political solidarity within representative areas, there is distinct value in having a single set of areas for representation in the two houses, and there is a distinct disadvantage in having the areas for one house cross the lines for the areas of the other house. Such a crossing of lines creates confusion in party organization, and also makes it much more difficult for the independent voters to organize themselves with respect to legislative representation and to know the basis of their representation in the two houses.

In Illinois since 1870 the cumulative system of voting has existed, and there has been but one series of representative areas—the senatorial districts. From each senatorial district three representatives are elected at large under a system of cumulative voting. It is, of course, not necessary that cumulative voting exist in order to use but one series of areas for representative purposes. In North Dakota the members of the house of representatives are apportioned to, and elected at large from, each senatorial district. Of course, the use of the senatorial district for the election of representatives at large involves the apportionment to a senatorial district of several representatives, so long as the lower house of the state legislature is composed of a materially larger number than the upper house.

Even if there are to be two sets of state representative areas, it is relatively easy, however, to avoid the crossing of lines of such areas, and to prevent the confusion which results from such crossing of lines. If the senatorial areas are based upon population there is no difficulty about dividing each senatorial area into the number of representative districts to which its population might entitle it, although even such a plan involves a relationship between the members of the state house and senate such that the larger number is divisible by the smaller. In Minnesota the constitution provides that "no representative district shall be divided in the formation of a senate district," and the New York constitution provides that each assembly district "shall be wholly within a senate district."

These statements are, of course, based upon the assumption that representation in state legislatures is to be based upon

population. It is, of course, true that representation in many states is now largely based upon state governmental areas rather than upon population, and that in substantially all of the states where population is taken as a basis, county lines are to be observed in the apportionment of senators and representatives except in the cases where a county is entitled to more than one senator. In connection with the representation in state legislatures, it should also be borne in mind that each state is divided into districts for the election of members to the national house of representatives.

Illinois is now divided into fifty-one state senatorial districts, and these fifty-one districts constitute the areas for the election of the members to the state house of representatives. The state is now also divided into twenty-five congressional districts, and if a congressional reapportionment had taken place the state would have been divided into twenty-seven districts upon the basis of the census of 1910. In congressional apportionments there is no requirement that county lines be observed, even when it is possible to observe them, and as a matter of fact in Illinois county lines are in some cases not followed with respect to congressional districts even where this may have been possible. With the smaller number of members in Congress, the presence of one county of large population adds to the difficulty of adhering to county lines.

With respect to representative areas, the situation in Illinois is less complex than that in most other states. There are merely two sets of districts, the senatorial for state representative purposes, and congressional districts for national representative purposes. There is no definite relationship, however, between these two sets of areas, and such a relationship would be difficult to work out, in view of the fact that there is no definite and permanent relationship between the numbers of the two sets of districts, although it might be possible to work out more of a relationship than that now existing. No state has sought to base its representation for state legislative purposes upon congressional apportionments, and taking congressional districts as a basis for senatorial representation in Illinos would probably

result in the establishment of districts regarded as too large for state representative purposes. Of course, it would be possible to reach much the same result as that now existing in Illinois by adopting the rule that each congressional district should be divided into two senatorial districts. Such a plan, if it continued the present Illinois system by which the two houses are chosen from the same representative districts, would, of course, involve a gradual increase in the membership of both houses, that is, if the population of Illinois continues to increase as it has done in the past.

The plan of decennial apportionments of members to the national house of representatives has almost necessarily resulted in a decennial increase in the number of members of that body. This increase has been forced as a political expedient because of the fact that no state desires to lose membership in the house of representatives, such loss of membership involving the apportionment of the state into a smaller number of districts, and necessarily the loss of his seat by some one of the existing members of the house. To this purely political influence is added the sentiment upon the part of the state that it does not wish to go backward in representation, although, of course, it does go backward in proportion to the representation of states which are increasing in population or increasing more rapidly.

In Illinois there has been a settled constitutional practice of limiting the membership of the two houses of the general assembly. This limitation has not always been an absolute one, but by the constitution of 1870 the membership of the senate is explicitly limited to fifty-one, and the membership of the house of representatives to three times this number. Some definite limitation upon the membership of state legislative bodies is desirable, and the absence of limitation, together with a population basis for reapportionment, is almost certain to lead to steady increase in total membership. However, if state legislative representation were based upon congressional areas, the increase would be relatively slight and would be determined by considerations not controlled by the state legislative body itself.

Cook County is now the only county in Illinois having more than one senatorial district. Within Cook County there are two primary governmental areas, the wards within the city of Chicago, and the townships in the less thickly populated districts outside of the city. No effort has been made to take ward lines as a basis for the apportionment of senators within the city of Chicago, and it would be extremely difficult to use wards as a basis for senatorial apportionment, because there has been no recent reapportionment of wards within the city of Chicago and the representative system for the city council of that city is now distinctly unequal. Townships in Cook County outside of the city of Chicago vary so materially in population, that there is no opportunity for an effective use of them as units in the construction of congressional and senatorial districts. That is, under present conditions there is no possibility of preserving the individuality of local areas within Cook County as parts of larger state and national representative areas.

The division of governmental territory into election precincts has no bearing upon the problem here under discussion as such division is primarily based upon the number of voters within particular areas, modified to some extent by the convenience of polling places to the voters. Election precincts are, as a matter of necessity, always within county lines, and also within the ward lines of the city of Chicago.

JUDICIAL AREAS

Aside from the city courts which have been established in twenty-six cities, and the municipal court of Chicago, the county is the primary unit of judicial organization in Illinois. The jurisdictions of the city courts and of the municipal court of Chicago are confined to the limits of their respective cities. Justices of the peace are elected by local communities within the county, but their jurisdiction extends throughout the county. The jury and grand jury systems are based upon the county as a unit. The constitutional guaranty of jury trial has been interpreted to require that a jury be drawn from the county,

and so distinctly is this the case that it has been held improper to have a city court for a city which is partly within two counties, because of the confusion and difficulty that would result in the drawing of juries for such a court.[1] A state's attorney is elected for each county. By statute there is a county court for each county, and a probate court for each county with 70,000 or more inhabitants. The constitution provides that counties may be united for the establishment of county courts, but the statutory organization of county courts provides one for each county.

The constitution provides an alternative method for the organization of circuit courts. Under one plan, one judge was to be elected for each circuit, and circuits were not to exceed in number one for each 100,000 inhabitants. Under the other plan the general assembly was authorized to divide the state into circuits of greater population and territory, and to provide for the election therein, by general ticket, of not exceeding four judges. By statute, provision has been made for seventeen circuits outside of Cook County, three judges being elected at large from each circuit. Circuits are in all cases required to be "formed of contiguous counties, in as nearly compact form and as nearly equal as circumstances will permit, having due regard to business, territory and population."

Cook County forms a distinct judicial area with two courts (the circuit and the superior courts) constituted for the exercise of the jurisdiction elsewhere vested in the circuit court.

By the constitution the general assembly was authorized to create inferior appellate courts, such courts to be held by such number of judges of the circuit courts and at such times and places and in such manner as might be provided by law. In the exercise of its authority to create appellate courts, the general assembly has established four appellate districts, Cook County forming one of these appellate districts.

For the election of the seven judges of the supreme court the state was, by the constitution of 1870, divided into seven districts, and the general assembly was authorized to change the

[1] People v. Rodenburg, 254 Ill. 386 (1912).

boundaries of the districts "at the session of the general assembly next preceding the election for judges therein, and at no other time." Alterations, when made, were required to be upon the rule of equality of population as nearly as county boundaries would permit, and the districts were required to be composed of contiguous counties in as nearly compact form as circumstances would permit. Inasmuch as supreme court judges are not all elected at the same time, and in view of the further fact that the change of the boundaries of one district would necessarily involve changing the boundaries of some other district, the supreme court found it necessary to interpret the provision as to the time of changing supreme court districts so as to permit the alteration of one district to effect a change in other districts, even though such changes were not made immediately prior to the election of judges within all the districts whose boundaries were so changed. The constitution contains similar provisions regarding the change of judicial circuits, but the provisions have made no trouble because all circuit judges are elected at the same time.

In 1870, the state was divided into three grand divisions, in each of which the supreme court held sessions. This plan was continued by the constitution of 1870, but the general assembly was authorized to alter this arrangement, and by legislation of 1897 the grand divisions for the supreme court were abolished and all terms of the supreme court are now held at the state capital. The supreme court grand divisions have, however, been made the basis for the organization of the appellate court districts. The second appellate court district includes all the counties in the former northern grand division of the supreme court, except Cook County which is organized into a separate appellate district; and the third and fourth appellate court districts include the counties in the former southern and central grand divisions of the supreme court, respectively.

It will be noted that the constitution provides regarding supreme court districts that such districts shall be based upon the rule of equality of population as nearly as county boundaries will allow, and that the constitutional provisions regarding judicial circuits require that such circuits shall be formed of

contiguous counties. There is no requirement that appellate court districts shall be composed of counties as units, although such a result is accomplished by legislation, and, partly for political reasons, the supreme court grand divisions have been used as a basis for the appellate courts.

Although appellate courts are held by judges of the circuit courts, the circuits are not entirely within appellate court districts. The ninth, tenth and eleventh circuits are split, part of the counties of each being in the second district and part in the third. Similarly, the fourth circuit is split between the third and fourth appellate districts. The first appellate district is composed of Cook County, and the lines for this district are necessarily the same as the lines bounding the circuit court area. For the other three appellate court districts, however, there is a crossing of the lines of circuits, although under the constitution and statutes circuit judges are designated to hold the appellate court, and appeals to that court are in the main taken from the circuit courts.

As has already been suggested, the county is the primary unit of judicial organization. Counties form the units which make up the circuits, the appellate districts, and the supreme court election districts, although the lines of all of these larger areas cross each other. For the city courts and the municipal court of Chicago the city is the area of jurisdiction, but juries for these courts are drawn from areas bounded by county lines. The prosecuting machinery is organized on county lines, the jury system on county lines; and although justices of the peace are elected from smaller areas, each justice of the peace (except in Chicago), no matter in what part of a large county he may be, has a jurisdiction extending throughout the limits of the county.

LOCAL GOVERNMENT AREAS

There are three main types of local government districts in the state of Illinois: counties, townships and school districts. Each part of the state is at the same time in a county, a school township and a school district; and every part of the state is

also in a civil township or a road district. In addition, there are over a thousand cities, villages and incorporated towns; and also a considerable number of drainage, park, high school and other special districts. These districts for local government purposes overlap each other, and the result is a more complicated and confusing network of local areas and local authorities than in any other state.

There are one hundred and two counties. These counties vary widely in area and population. There are twenty-nine with less than 400 square miles (the minimum area specified by the constitution for new counties), and several with less than 200 square miles, while six are more than 1000 square miles in area. In population the counties range from 7000 to more than 2,500,000; fifty counties had less than 25,000, and 17 had more than 50,000 population in 1910.

The constitution contains a number of provisions regarding the creation of new counties, the change of county boundaries and the removal of county seats, and these provisions are supplemented by statutes regarding the same matters and with respect to union of counties. Since 1859 no new counties have been created and no counties have been united.

Under the constitution three types of county government are provided. The township system may be adopted by any county desiring to adopt it. The township system was first provided for by the constitution of 1848, and the provisions for this system were continued with some alteration in the constitution of 1870. Eighty-five counties have adopted the township system, and the county law provides for the government of these counties (except Cook County) by boards of supervisors elected by the towns at their meetings in April for terms of two years. The size of county boards ranges from five in Putnam to 53 in La Salle County. In eighteen counties there are thirty or more members. The number of members of the county board of supervisors depends, of course, upon the number of townships into which the county is organized. There are in the state 1430 civil townships with an average area of a little more than 35 square miles each.

For Cook County the constitution provides a board of fifteen commissioners, ten elected from the city of Chicago, and five from the towns outside of the city; by statute these commissioners are now elected for a four-year term and one member is elected as president of the board with special powers.

In counties which have not adopted the township system, the state constitution provides for "a board of county commissioners, consisting of three members elected at large, one each year," for three-year terms. There are seventeen counties which have not adopted the township system. For the counties which have not adopted the township system the constitution prescribes a rigid form of county government, which makes it necessary that county elections be held annually for county commissioners. The government of Cook County and of the counties not desiring to adopt the township system is rigid and cannot be altered without constitutional change.

The constitution does not prescribe definitely the form of township organization, but leaves this matter to the general assembly so that some possibility of flexible county organization exists in this respect, the court having said that "the whole *modus operandi* of township organization is committed to the legislature, the constitution prescribing no particular form or officers, and the legislature has the power to fix and limit the powers of the township officers and to modify them at will."[2] However, the constitution does prescribe the formalities for the adoption or the abolition of township government, and the supreme court has said that a statute giving the county board power to alter the boundaries of townships cannot be construed to permit the county board to consolidate townships, since this construction would allow the county board to consolidate all townships of the county, and result in making void the formalities prescribed in the constitution for the abolition of the township system.[3]

Reference has already been made to the number of cities, villages and incorporated towns exercising powers of local gov-

[2] People v. Commissioners of Cook County, 176 Ill. 576 (1898).

[3] People v. Brayton, 94 Ill. 341 (1880).

ernment. These communities in all cases occupy territory over which other areas exercise functions of local government, so that in no case is a city, village or incorporated town the only body for the exercise of purely local functions within its territory. The county is, in all cases, an area covering the same territory as cities, villages and incorporated towns, and is exercising distinct and independent local functions which are similar to those exercised by incorporated areas.

Within the areas of incorporated communities as well as in territory not incorporated, there is, as has already been noted, a series of park, drainage, sanitary, forest preserve, and other districts for the performance of certain specific functions. In 1917 provision was made for the establishment of local health districts, composed of two or more townships.

All parts of the state are overlapped by a complex series of local areas for the performance of different or similar functions of local government. Of course, certain areas of the state are organized into a more complex system of local areas than others. Cook County, with its more concentrated population, presents the most serious problems as to local government organization; but much the same type of problem presents itself in urban areas such as those in and around East St. Louis, and in territories where there are several urban communities in close proximity to each other, such as Rock Island and Moline, Champaign and Urbana, and La Salle and Peru.

Taking the various local districts as a group, there is an aggregate of 2557 public officers voted for in Cook County. Each male elector in Cook County is expected to vote for from 172 to 197 different officers in a brief number of years. At the November election in 1916, each male elector was called on to vote for 72 officials in Chicago, and in other parts of Cook County for 61 officials. For the state, including Cook County as well as other counties, the number of officials to be elected for each local governmental body at one time is not great, and as the elections for the different local districts are held at different times the total number of local officers to be voted for at one election is not large, but this result is secured by multiplying the num-

ber of elections. There are seven regular local elections each year in the spring months. In years when circuit or supreme court judges are to be elected, there are as many as eight elections within a five-month period. These are in addition to the general state primaries and elections in September and November every second year, and the presidential primaries every fourth year.

The complexity of local government in Illinois is increased by a mass of legislation which is general in form, and which ordinarily for this reason complies with the constitutional requirements, but which is in fact special. For Cook County and for Chicago special legislation is, under certain conditions, explicitly authorized. The statutes of Illinois also contain with respect to local government a large mass of optional legislation, and there is no central record or central knowledge in any one place as to what communities have or have not come under the terms of such laws. Of course, optional legislation is to a large extent employed as a means of avoiding constitutional limitations upon local and special legislation, and a law is frequently passed to meet the specific needs of only one community but is made generally optional in form.

Not only is there confusion because a large number of local areas overlap each other and perform different functions of local government, but with respect to the same function of local government there may be oftentimes a number of local areas with crossing lines and with powers almost identical as to the same matter. This situation presents itself particularly with respect to schools. A community consolidated school district may be organized in this state with all of the powers of other school districts under the laws of the state. A community high school district may be organized for the purpose of conducting a high school. Under the general laws of the state a community consolidated school district may conduct a high school, but it mav be partly within the boundaries of a community high school district authorized to conduct a high school and to do nothing else. The supreme court has reached the conclusion that the two districts may not tax the same area for precisely the same purpose,

although both districts may have the power to do precisely the same thing. This presents a difficult and complex situation, probably more extreme than that presented by other overlapping areas of local government, but little different in fact. The supreme court has suggested in a recent case that where a high school district overlaps part of an ordinary school district neither will be held invalid, for the reason that the supreme court will assume that the ordinary school district will, as to any overlapping area, confine itself to the operation of elementary schools, while the high school district will confine itself to the operation of a high school. The court suggests that where the districts have conflicting powers which the two cannot exercise, a mutual arrangement will probably be reached by which conflict may be avoided.[4]

The practice in Illinois, as in other states, has to a large extent been that of creating a new local area whenever it was desired to provide for a new function of local government. The multiplication of local areas has reached such a point that it confuses the citizen, and no one of such areas ordinarily has a sufficient amount of work to be effective. The scattering of energy and the division of local government work into small separate parts constitute the worst features of local governmental organization in this country. Reference has already been made to the confusion of districts having to do with school matters in Illinois. The districts are small and there are numerous types of districts for different purposes, such districts often overlapping.

There is for the state as a whole no effective central record of all local areas; and no effective county record of all the areas within each county. With respect to drainage matters there are certain transactions which must be had before the county court, and the county collector is the final authority for the collection of delinquent special assessments, but except with respect to certain of these matters where the records of action are scattered among various county offices, there is no means of determining the location, areas, and other information regarding the different types of drainage districts.

[4] People v. Woodward, 285 Ill. 165 (1918).

There is no central record for the state as a whole of the financial or other transactions of the county and of all the other local areas within each county, nor for all of the local areas lying within any specific portion of the territory of the state. Not only is there no state record but there is no county record for each county which may be employed for the discovery of the local government situation in any particular county. Legislation of 1919, replacing an act of 1881, provides that "every public officer other than a state officer, who, by virtue of his office receives for disbursement and disburses public funds in discharge of governmental or municipal debts and liabilities, shall, at the expiration of each fiscal year, prepare a statement;" and further provides that such statement shall, within thirty days after the expiration of the fiscal year, be published once in a newspaper published in the town, district or municipality in which such public officer holds his office. This law lays down no conditions as to uniform statements, and does not aid in reducing the present confusion of local government. Each officer of the county or other local area who disburses public funds is required to make a separate statement, and may make this statement in any form in which he sees fit. Publication of such statements accomplishes little, other than making a payment necessary to the local newspaper.[5]

By statute the county clerks are made the authorities for the extension of all taxes for the respective towns, townships, districts and incorporated cities, towns and villages in their counties.[6] In the task of extending taxes, the so-called Juul law, first enacted in 1901 but frequently amended, provides for a scaling down of taxes so that they shall not exceed a certain aggregate rate for any portion of the county. Under the Juul law, as originally contemplated, all taxes would, as it were, be placed in a compress, an equal pressure reducing all taxes for a given area in the same proportion. Soon, however, interests which were strong enough began to secure statutory amendments which took certain taxes entirely out of this compress.

[5] *Session Laws*, 1919, p. 713.

[6] Hurd's *Revised Statutes*, ch. 120, secs. 123–127

Other interests obtained legislation which places their taxes in the compress but provides that such taxes shall not be reduced, and still other interests have obtained legislation providing that their taxes shall not be scaled below a certain figure. The result is that a group of local taxes (but not all imposed within a particular local area) are placed in a compress; some of the taxes may, as a result of the operation of the compress, not be reduced at all, others may only be reduced to a certain amount, and a third group may be reduced as far as necessary to bring the aggregate down to a definite figure. The Juul law is not, and never was, a distinct element of unity in the operation of the different types of local government. It was merely a make-shift for the purpose of keeping the aggregate of local taxes within limits, and this purpose is now defeated by the large number of exceptions made in the terms of the law itself. At the present time the law serves primarily as a pitfall for unwary tax officers. Not even in the extension and levy of taxes is there anything of an effective unity.

With respect to the collection of delinquent taxes, the constitution by article 9, section 4, provides with respect to real estate that "a return of such unpaid taxes or assessments shall be made to some general officer of the county having authority to receive state and county taxes, and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon order or judgment of some court of record." The actual result of this constitutional provision, however, is that a community having authority to levy special assessments makes collections so far as they can be made, and then the books must go to a county officer for further collection, with a duplication of tax books and of records with respect to the matter. The result of the constitutional provision regarding delinquent taxes, in so far as it has been carried out by legislation, is, therefore, to create a greater degree of confusion rather than to better the situation with respect to local areas.

Not only is there no unity of action among the numerous local governing bodies, but the fiscal years of such bodies begin at different times, so that if under the legislation of 1919, finan-

cial reports for each body were published, such reports would not be comparable, even if it be assumed that the average citizen could take the time to discover all of the local governing bodies which have jurisdiction over him and to find the statements of disbursements for each such body. For the board of county supervisors under the township system the fiscal year begins September 1, while other county officers begin their fiscal year on December 1. Most cities begin their fiscal year on May 1; but Chicago and some others begin on January 1. School accounts and records are based on the school year beginning July 1.

Since the introduction of the township system there has been a distinct tendency for the township to become less important. The township system was rapidly adopted by counties in Illinois, but in recent years there has been little tendency to extend this system, although the alternative is the rigid commissioner system specified in the constitution. Two counties have adopted township organization since 1890. The smaller counties of the central and southern part of the state which have not adopted this system seem content with the alternative now provided by the constitution.

In the counties which have adopted the township system the township has become relatively less important, although this statement should not be interpreted into an assumption that the township has ever been an area of distinct importance. Little attention is paid to the town meeting. Town taxes, other than those with respect to roads, are relatively slight. In 1917 the township collector was abolished except for counties of a population of over 100,000. A single township highway commissioner was, in 1917, substituted for a group of three highway commissioners. By legislation of 1877 an effort was made to simplify government in cities by providing that a city may be separately organized as a town, the city government taking over the ordinary functions of the town government.[7] By an optional act of 1901 (adopted by Chicago and Springfield) the powers of townships and town officers in townships lying wholly within

[7] *Ibid.*, ch. 139, sec. 136.

any city of more than 50,000 inhabitants may be exercised by county officers.[8]

The main differences between counties under the township system and counties not under the township system are in the offices of supervisor and assessor and in county boards. The abolition of town assessors has been strongly urged for many years. If this were done and a small county board established in place of the board of supervisors there would be almost nothing left of town government. As has already been suggested, in some counties under the township system the county board of supervisors has become a cumbersome and ineffective governing body.

Two developments of recent years may be noted as important. One is the tendency to make the county the more important area for local administration in such matters as poor relief, highways, and the assessment and collection of taxes. The concentration of greater powers into the hands of the county as to taxation came in 1898, and as to highways in 1913. With respect to poor relief and charities there has been a steady development toward the use of the county, and by legislation of 1917 counties were authorized to unite in the administration of poor farms. This union was made necessary because of the fact that small counties were often unable to handle poor relief satisfactorily. The chief purpose aimed at in the transfer of functions from the township to the county has been to use a larger unit with more work to be done, and generally the result of consolidating work into the larger unit has been more efficient governmental work.

The other tendency has been that toward a very decided increase in the importance of cities, villages and incorporated towns. Before 1870, cities, villages and incorporated towns were in the main organized by special laws, and such special laws were enacted in great numbers, although many of the communities incorporated had small populations. With the constitution of 1870 special legislation of the old type became impossible, and cities and villages to a large extent reincorpo-

[8] *Ibid.*, ch. 24, sec. 643.

rated under the general cities and villages act, in order to obtain wider powers conferred by that act. In addition, between 1870 and 1917 there were 763 new cities and villages incorporated, making in that year a total of 1098 incorporated cities and villages. To these must be added the small group of 24 cities, villages and incorporated towns still operating under special charters enacted before 1870. Not only has there been a great increase in the number of incorporated communities, but there has been an equally great increase in the importance of the activities they have undertaken, so that although there are usually a number of other local governmental areas covering the territory of each incorporated community, the incorporated city or village is now the most important local governmental area within the territory which it occupies.

Another tendency in recent years which should be noted is that toward the multiplication of special districts for the performance of specific new functions of local government, with the creation of a new area for each new function of local government.

CONSTITUTIONAL BASIS FOR PRESENT GOVERNMENTAL AREAS

To what extent is the present complex system of governmental areas in Illinois required by the constitution of the state? So far as the legislative department is concerned, attention has already been called to the fact that areas for state representation are simple, there being but one set of districts for both senators and representatives; and it is possible to keep a single set of districts even though the cumulative system is abolished. However, if it is intended to adopt a different basis of representation in the two houses for different parts of the state, and to give a representation to areas rather than to population upon a different basis in the two houses, or to represent areas in one house and population in the other, a single set of representative areas becomes substantially impossible. As has already been suggested, even though two sets of areas should be adopted, it is still possible to prevent smaller areas from cutting across the boundaries of the larger areas. It is, of course, impossible under

the present constitution of Illinois to utilize for state legislative representation the same areas as those employed for representation in the national house of representatives.

So far as state judicial areas are concerned it should be repeated that the county is the primary judicial unit; and that the counties serve as units to make up the circuits, and the districts for the election of justices of the supreme court. So far as the appellate courts are concerned there are no constitutional requirements, but political expediency has caused previously existing judicial areas to be employed, and the counties also form the units of these areas. By the terms of the constitution, county boundaries must be respected in the rearrangement of circuits and of supreme court election districts, and supreme court election districts are so hedged about as to the time they may be changed that this has discouraged much effort to readjust them in proportion to changing population; although the failure to readjust the supreme court election districts has been primarily due to political considerations. It may also be suggested that the constitutional provision that county boundaries shall be respected in the readjustment of supreme court election districts may be interpreted to make it impossible under the present constitution to give Cook County two out of the seven justices, although Cook County had, by the census of 1910, three-sevenths of the population of the state. As has been noted, appellate court districts now cut across the lines of judicial circuits, but a readjustment of this matter is, by the terms of the constitution, entirely within the control of the general assembly. The constitution itself permits one specific departure from the general policy of making the county the primary unit in judicial areas, by permitting the consolidation of counties in the establishment of county courts, but such an alternative is hardly likely to be taken advantage of, for there is a distinct political desire to have the office of county judge within each county.

So far as local governmental areas are concerned, the terms of the Illinois constitution of 1870 have a decisive influence. When the constitution of 1870 was framed, the state had already

been divided into 102 counties with their present areas. The constitution lays down definite restrictions upon county readjustments, prescribing that no county shall be formed of less than 400 square miles, nor reduced below 400 square miles, and that no county line shall pass within less than ten miles of any county seat of the county or counties proposed to be divided. No territory may be stricken from any county unless a majority of the voters living in such territory petition for such division; and no territory may be stricken from or added to any county without the consent of the majority of the voters of the county from which the territory is to be stricken and to which the territory is to be added. These constitutional provisions make it fairly certain that the counties will remain as they have remained since 1870 without change in the boundaries established before the adoption of the present constitution; and there is probably little possibility of changing the present constitutional provisions unless, perhaps, with respect to issues of consolidation presented by Cook County and the city of Chicago.

Not only are the areas of counties substantially fixed by the state constitution but the types of government are definitely prescribed. As has already been noted three systems of county government are prescribed by the constitution of 1870, one for Cook County and two others, counties having an option as to which of the latter two—the township system and a rigid system of county commissioner form of government—they shall adopt. The Cook County system is definitely prescribed, and for all of the counties there is a definite constitutional enumeration of county officers. The number of officers as enumerated is too large for small counties, but there is no flexibility with respect to this matter. The work to be done by each county officer in a small county is not great, and his salary must be correspondingly small or the financial burden becomes too great. As to the general system of county government, the only element of flexibility is the option of counties between the township system and the county commissioner system, and the further general power of the legislative bodies to determine the form of the township system. There are no constitutional restrictions upon the general assembly as to the character of township organization.

The financial provisions of the constitution were probably not intended, in 1870, to have a definite influence upon the development of new areas of local government, but these provisions have had such an influence. With respect to taxation several matters present themselves as influential in leading to a multiplication of areas and an intense complexity of local government. Article 9, section 9 of the constitution requires that municipal taxes "shall be uniform in respect to persons and property within the jurisdiction of the body imposing the same." This makes it necessary that a new district be created if a new function is to be exercised within certain limits of area not already established as the limits of some other governing body. It is out of the question under any safeguards for a local governing area to levy a tax within merely a part of its territory, unless such tax be a special assessment or a special tax upon contiguous property in payment for local improvements.

Another difficulty presents itself in that the county tax rate is definitely limited by the constitution, and if this rate is insufficient to cover certain expenditures for which the county might otherwise be a proper area, the only alternative, if the function is to be performed, is that of vesting such functions in other existing local areas whose taxing rates are not constitutionally limited, or the creation of new local areas for the performance of the functions. This limitation now prevents the use of the county as the local area for road taxes.

To some extent political considerations also present themselves with respect to the multiplication of local areas with distinct taxing rates. If all areas of local government wer united into one with a single large tax rate, it might be more difficult politically to justify such a rate, or an increase in the rate once established, than it now is to obtain increases in numerous separate and independent rates. With the separate and independent rates the increase of each will oftentimes not be detected by the taxpayer until all the rates come to be combined for purposes of collection, and then protest or opposition comes too late. A number of separate taxing areas is sometimes of importance for the purpose of dividing up expenditures for a partic-

ular purpose so that the total of such expenditures cannot easily be ascertained. Of course, where the same purpose is to be accomplished, as that with respect to taxation in overlapping areas with slightly different powers or with substantially the same powers, the existence of such overlapping and duplicating areas may sometimes serve as a means of obtaining without additional legislation new revenue for the general purposes to be accomplished when new or additional expenditures become necessary.

The powers of special assessment and special taxation are limited by the constitution to certain specific areas of local government. Section 9 of article 9 of the constitution authorizes the general assembly to "vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property, or otherwise." This provision was held by the supreme court to prevent the levy of special assessments by other corporate bodies than cities, towns and villages, and a constitutional amendment was adopted in 1878 expressly authorizing drainage districts to employ special assessments for the construction and maintenance of levees, drains and ditches. There is now some doubt as to the constitutional power of drainage districts to levy general taxes. The supreme court has by interpretation extended the power to levy special assessments to park districts. It may be that special districts are necessary for drainage purposes, and that other existing districts cannot be effectively employed for this purpose. Drainage districts are authorized to levy special assessments for the construction and maintenance of improvements, whereas the special assessment powers of other communities are by judicial construction limited so as not to apply to the maintenance of improvements. So long as powers of special assessment are not granted to all local governing areas, and are granted in a more extended manner to drainage districts, separate drainage districts will probably be necessary.

With respect to special assessments, attention should be called to the fact that by construction the supreme court of Illinois

limits the term "local improvements" to improvements undertaken by one municipal corporation, so that two adjacent municipal corporations may not by special assessment undertake a single plan of improvement.

The constitutional limitation upon municipal debts has probably had the most influence in the multiplication of areas of local government. This constitutional provision says that: "No county, city, township, school district or other municipal corporation shall be allowed to become indebted in any manner or for any purpose to an amount including existing indebtedness in the aggregate exceeding five per centum of the value of the taxable property therein, to be ascertained by the last assessment for state and county taxes previous to the incurring of such indebtedness." The supreme court of Illinois has definitely said that this constitutional prohibition in no way prevents the creation of new local areas with new functions, although the territory of such new areas may lie entirely within the territory of existing governmental bodies which have already incurred an indebtedness in excess of five per cent of the value of the taxable property therein. In the language of the court: "The constitutional limitation upon the extent of corporate indebtedness applies to each municipal corporation singly, and where one corporation embraces, in part, the same territory as others, each may contract corporate indebtedness up to the constitutional limitation without reference to the indebtedness of any other corporation embraced wholly or in part within its territory."[9] If existing local governing bodies have incurred indebtedness up to the constitutional limit, all that need be done in order to obtain money for a new function is to obtain authority from the general assembly to establish a new type of local area, and to start such local area upon its career with an entirely new debt limit. However, the supreme court has seen fit to draw a line when an effort was made to divide into two groups the powers of an existing local area, and to set up a new debt limit for precisely the same territory.

[9] People v. Honeywell, 258 Ill. 319 (1913).

South Carolina has sought to prevent the type of difficulty which has presented itself in Illinois by prescribing a limit upon the debt of each municipality, and by making the further provision that where there are two or more municipal corporations covering the same territory "the aggregate indebtedness over and upon any territory of this state shall not exceed fifteen per cent of all taxable property in such territory."

What has been said above is sufficient to indicate that a large part of the difficulty with respect to existing local areas in Illinois is directly traceable to constitutional provisions, although the situation is in large part due to a haphazard development of legislation. A good part of the present situation cannot be remedied without constitutional change, but much of it can be altered merely by legislation.

POLITICAL CONSIDERATIONS AND GOVERNMENTAL AREAS

The problem here under discussion is a distinctly political one, with close relationship to problems of party organization, and cannot be solved satisfactorily without consideration of political motives.

The present situation in Illinois is a bad one. There is no relation between senatorial and congressional districts, though with respect to state representative areas, Illinois has less complexity than most other states. There is no relation between the circuit and appellate districts, or between these districts and the supreme court election districts, and no relation between judicial and representative areas. There is a whole series of areas for local governmental purposes with substantially no relationship among them, and there is little or no relation between the areas for local government and areas for legislative and judicial purposes. It should be borne in mind, however, that the county is a unit which runs through all of the areas, whether such areas relate to local government or to judicial and legislative purposes. The county has come to be the principal unit of local government also, although within cities and villages the city or village government is frequently much more important than the county government. The county may properly

be said to be the one area which gives an element of unity to the political geography of the state.

The present county areas were established fairly early in the history of the state, and there has been no change in counties since 1859. Present county areas are practically guaranteed by the constitution and changes are not apt to take place. In the early history of the state, counties of small population were established in the southern territory, which was first settled, and in the southern area and also in other parts of the states there are many counties which cannot be expected to have a large population. Counties vary greatly in area and in population, and a rigid system of county government (with a detailed enumeration of county officers) cannot be properly applicable to counties which range from 7000 inhabitants to 3,000,000. In connection with the question as to whether time is likely to diminish the present discrepancies in population of the several counties, attention should be called to the fact that twenty-four counties actually decreased in population in the twenty year period between 1890 and 1910.

The first generation of statehood in Illinois by its organization of counties fixed to a great extent the permanent political basis of local government for the state, and this basis was determined in part by the more difficult means of transportation in the earlier days. The influence of the early division of the state into counties is not that of a dead hand, for the counties have now become a definite part of the consciousness and sentiment of the people of the state. This is true, not merely of the counties of larger population, and probably not so true of counties of large and growing population as of the counties which have remained stationary or gone backward. It may be urged that the counties which are not progressing in population should to a large extent be disregarded in the planning of the political future, but even if this were admitted, these counties together have a political influence which can effectively block action.

The counties are likely to remain the chief areas of local government and the chief units in other areas, and there is no present likelihood that they will become more nearly equal in

area or population. Something of value might be accomplished by a redivision of the state into counties more nearly comparable in population, although in the more sparsely settled parts of the state this would involve the creation of counties much too large for effective local government. On the other hand, there is much to be said in favor of preserving areas which have a historical background, and which have established themselves in the sentiment of the people rather than splitting the state into districts or counties on a purely utilitarian basis. Sentiment will unite with other influences to prevent the division of Cook County in furtherance of a plan to establish a more effective consolidated government for the city of Chicago; and it is likely that any consolidation, if effected, will take place within the limits of the existing county rather than by the carving off of a new county composed of purely urban territory.

In connection with the problem of a possible readjustment of county areas it should be borne in mind that the county is now the chief unit of party organization, and that political parties always look with suspicion on anything in the nature of a new deal. The county has been the unit of political party organization for a long period. Senatorial districts, congressional districts and judicial circuits are artificial areas which are subject to change or possible change at definite intervals, and for which new party organizations must be constructed upon the basis of county units.

It may be said that there is a direct antithesis between large and small areas for governmental purposes; or rather the antithesis may be said to be one between the more or less accidental county areas now existing and the plan of establishing a series of new areas for the purposes which are now largely met by the county as a unit. This antithesis has an important bearing upon the problems of proportional representation and of judicial specialization, for these matters involve larger districts than at present, except in so far as they may be worked out in larger metropolitan communities.

The county is and for a long period has been the unit of party organization, largely because of the fact that an important

group of local officers is elected from the county as a unit; parties tend naturally to desire a perpetuation of this plan, and a continuance without diminution of all local officers, inasmuch as each elective county officer serves as an added element of local political strength for the purpose of winning at the polls. For the same reason a party organization will always prefer to do away as far as possible with larger areas, and to have elections from each county as a unit rather than from a larger district. From the political standpoint there is a distinct basis for this attitude, and it should also be borne in mind that the attitude just spoken of has not merely a basis in party organization, but also a basis in local county sentiment.

At the present time there are fifty-one senatorial districts in Illinois. Of these seventeen are in Cook County, and three counties (St. Clair, Peoria and La Salle) each constitute a single senatorial district. The other counties of smaller population are necessarily grouped, and the number of counties in a senatorial district ranges from two to seven. From each senatorial district there are three representatives and one senator, and where there are more than four counties in a senatorial district (and there are eight such districts) it is, of course, necessary that all of the counties in excess of four have no members from their own borders in either of the two houses of the general assembly. Where a number of counties of small population are grouped together, each county may have a relatively equal chance of obtaining one or more of the four members of the general assembly, and which counties shall actually have no members within their borders depends largely upon local political considerations, upon plans of rotation, or upon other factors. The objection of small counties to such a plan is not based so much upon the opinion that they are discriminated against with reference to each other, as to the fact that each county does not have actual representation from within its own borders. Separate representation of each county in some manner cannot be accomplished under the existing plan, and this is, perhaps, the chief political objection to the plan.

On the other hand where a single small county is grouped with a large county actual discrimination may result, and the citizen of the smaller county may have little chance of election to either house of the general assembly. For the session of 1919 there were four districts composed of two counties each, in which a large county had the three representatives and the one senator, and the small county no representation from within its own limits (Will and Dupage, Kane and Kendall, Sangamon and Morgan, Madison and Bond). A county with a population well above the minimum of the state might be practically certain of having members in the general assembly if it were grouped with small counties, whereas its citizens might find it practically impossible to obtain election to either house of the general assembly if the same county were grouped with one large county.

In the session of 1919 there were twenty-four counties which had no member in either house, but eight of these counties were counties in excess of four in a district, and in such districts some counties necessarily were unrepresented. Sixteen of the twenty-four counties which were unrepresented in either house of the general assembly had a population of less than twenty thousand, but there are thirty-seven counties in the state with a population of less than twenty thousand and it is hardly possible to say that there is now a material underproportion of small counties represented in the membership of the two houses. To some extent the failure of a county to have a representative at one session in either house of the general assembly may be compensated by representation in a prior or later legislature. The theory of rotation among counties is oftentimes of influence where there are several counties in a senatorial district. Attention should, however, be called to the fact that the scheme of rotation has an undesirable influence upon the continuity of membership of the two houses, and leads to the selection of members for a definitely political consideration rather than upon the basis of ability or experience in office.

It is probable that there are few issues arising in the general assembly in which a county, as such, will suffer because it has no member of the general assembly from its own borders. Perhaps

the state system of highways adopted by the general assembly in 1917 was such an issue, although this is doubtful.

The present system of judicial circuits is one which leads to a greater degree of combination of counties than does the system of senatorial districts. There are seventeen judicial circuits outside of Cook County, and three judges are elected for each circuit. In 1919, the fifty-one judges came from fifty counties, Peoria County being the only one which had two of the judges for its circuit. There are two circuits of three counties each, and the others range from four to twelve counties. With one hundred and one counties divided into seventeen circuits, each circuit electing three judges, it is, of course, necessary that at least fifty counties have no circuit judges elected from within their borders. In general, the smaller counties of a judicial circuit are not able to have judges chosen from their borders, although in at least two cases the smallest county in a circuit has a circuit judge (6th and 14th circuits). There were but five counties in the state having a population below twenty thousand in 1910 from whose borders circuit judges were elected, although by the census of 1910 there were thirty-seven counties having a population below twenty thousand. With the larger area of circuits, the facts seem to indicate that it is more difficult to elect a judge from a county of smaller population than from a county of larger population within the same circuit, and this fact (if it be a fact) has some bearing other than the purely political one, for with respect to representation in the general assembly and with respect to judicial positions there is a disadvantage in having areas so constituted as to deprive persons of the possibility of election because of the counties in which they may chance to live. In the operation of the judicial system the county which has elected a judge from within its borders also has an advantage, for in the intervals between terms of court the judge will be available in his own county for the transaction of certain types of judicial business.

The suggestion has already been made that other areas than the county are artificial, at least from the standpoint of party organization, and there may be some value in having a different

and an artificial area for judicial elections. The constitution of Illinois provides a separate election date for judges, and a distinct lessening of the purely political factors may be accomplished by electing judges from a separate and artificial area created for that purpose alone, rather than by electing them from the county which is a unit of the most effective party organization. This matter is referred to in order to call attention to the fact that there may be no need for absolute unity in local governmental areas, and there may be an actual advantage in a lack of unity as to some matters. Of course, in connection with judicial areas it should be borne in mind that although periodical apportionments are permitted with respect to circuits and to supreme court judicial districts, there is now a distinct inequality of the population in these areas. As to circuits the constitution does not require an apportionment merely on the basis of population but provides that districts shall be formed "having due regard to business, territory and population."

Attention has already been called to some of the issues involved in the use of the county as the primary governmental area and to the problems involved in the proposal to create new and somewhat uniform larger areas for all purposes. Politically, the fear of a new deal and the fear of possible party consequences due to the reduction in the number of elective local offices raise a substantially insuperable barrier against the creation of new districts for simplified government.

On the other hand, the use of the county as a unit for all purposes involves practical difficulties of a serious character. From a political standpoint the thing perhaps most desired is that each county be represented in either one or both of the houses, and that each county elect the judges who are to preside over the courts sitting within the county.

With counties varying as much as they do in population, to give to each county separate representation even in the more numerous branch of the general assembly makes a legislative body too large, if other parts of the state are at the same time to be represented in proportion to their population. The rule of representation in Illinois since the establishment of the state,

and the rule in the great majority of the states, has been to give representation in substantial proportion to population. Of course, there is another and older principle of representation of areas not based upon population but somewhat modified by the factor of population, and it may be possible to adopt such a plan without increasing too greatly the membership of either or both of the houses. It may be possible, also, to carry out to some extent the notion of separate county representation, but to unite small counties for representative purposes so as to accomplish the purpose aimed at, not completely, but merely in so far as the variations of county population may seem under the circumstances to make advisable.

It has been a policy in Illinois since the beginning of statehood to limit the membership of the two houses. By the constitution of 1870, an absolute limit of fifty-one senators and one hundred and fifty-three representatives is set, and the rule is laid down requiring decennial reapportionments on the basis of population. This means that when one part of the state increases more rapidly than another part, it obtains under a reapportionment an increase of representation at the expense of the other part of the state, forcing a redistribution and involving necessarily the loss of office by some members of the general assembly who came from other parts of the state under an earlier apportionment. In Illinois, Cook County has increased more rapidly in population than the rest of the state, and each new senatorial district assigned to Cook County has involved taking away a senatorial district from the rest of the state, with the necessary readjustment of political areas and the necessary retirement from political life of some persons who might otherwise have continued in the general assembly from districts outside of Cook County. This factor has had a good deal of influence in the creation of the present feeling of the other parts of the state against Cook County. This feeling is not based purely, or perhaps primarily, upon the fear that Cook County may dominate the state politically, although this fear has been present.

A good illustration of what is likely to occur if the membership of either or both of the houses is unlimited appears in the

national house of representatives. Decennial apportionments take place upon the basis of population, and there is no limitation as to the number of members of the federal house. Each state desires to retain the number of members which it has, and all of the members of the house from that state naturally have the same desire. If the states which have not increased in population, or which have increased slowly, are to retain the same number of representatives, necessarily the states which have increased more rapidly in population must obtain upon a proportional basis additional representatives, and this forces a steady increase in the number of members of the house until that body has become cumbersome and ineffective. Somewhat the same influence may be seen in connection with the Chicago Fifty-Ward Act which was rejected on a referendum in Chicago in 1919. The ward apportionment in Chicago was upon a thirty-five ward basis with two aldermen from each ward, and the new legislation if adopted sought to bring about a more equitable apportionment upon the basis of population and to reduce the number of aldermen to fifty, one from each ward, thus making it necessary that at least twenty aldermen should retire from the city council.

If a reapportionment is likely to result in increasing the number of offices, there is a definite political incentive to make such a reapportionment. If, on the other hand, a reapportionment necessarily results not only in a redivision of territory, the political consequences of which are uncertain, but also in an actual reduction of the number of positions to be filled, there will normally be a distinct reluctance to reapportion. As has already been suggested, this is the situation with respect to senatorial apportionments in Illinois, and although the feeling against increasing Cook County's representation has some definite independent basis, the failure to make a senatorial reapportionment in Illinois since 1901 (although decennial reapportionments are commanded by the constitution) is due largely to the natural reluctance to diminish the number of members of the two houses for the rest of the state.

The problem of representative areas in Illinois is materially complicated by the issue as to representation between Cook County and the rest of the state. Cook County has increased in population much more rapidly than the rest of the state, and has steadily taken a larger proportion of the fixed number of senatorial districts. Cook County, in 1910, had about 43 per cent of the population of the state, and in 1920 is likely to have a larger proportion of the population. There is a natural reluctance to have one urban community control the majority of the members of the two houses, although as has already been noted, this reluctance has been strengthened by the fact that a gain of representation for Cook County means a loss of representation for the rest of the state, and a necessary loss of seats by some persons who may aspire to continue in the general assembly.

Cook County's representation is one of the most important questions before the constitutional convention now in session in this state. It is probable that some plan to limit representation will be proposed, but whether the limitation will apply to both houses or only to one of them is still in doubt. The problem is complicated by the cumulative voting system under which each senatorial district now elects one senator and three representatives. No district can be constituted with less than three representatives if the cumulative system is to be maintained, although there now seems to be a very definite agreement that this system should be abolished.

Once the number of senators and representatives for Cook County is agreed upon, the problem of apportionment within that county is divorced from the problem of local areas elsewhere. There remains, of course, the problem of the relationship of representative districts within Cook County to other local areas such as city wards in Chicago and townships in Cook County outside of Chicago. However, if the number of legislative members for the remainder of the state continues to depend upon the number to which Cook County is entitled, there will remain the definite political issue which presents itself through a possible future increase of Cook County representation bringing a proportional reduction in the actual number of existing representatives from other parts of the state.

With respect to the problem of judicial reorganization the counties of small population present a more serious issue than they do with respect to the state representative system. The small amount of business in some of the counties would make it substantially impossible to use each county as the area for the organization of the state judicial system, and at least with respect to the lesser counties a single court of original jurisdiction for each county as a unit would probably result in a great deal of waste. With reference to the problem of judicial organization, Cook County is not now of relatively great importance, for since 1870 Cook County has constituted a separate judicial circuit, and since the establishment of appellate courts, Cook County has constituted a separate appellate district. The one problem of political importance in judicial reorganization affecting Cook County is that regarding the supreme court election districts. There are now seven districts of unequal populations, and Cook County is united with four other counties to form the seventh district. The seventh district with one member of the supreme court had under the census of 1910 more than 46 per cent of the total population of the state.

CONCLUSION

From what has been said above it will be noted that the constitution-makers in Illinois have a number of important problems before them with respect to governmental areas. Shall each county be represented in the general assembly? Shall any one county be limited in its proportional representation? Shall larger judicial areas be maintained, or shall a county system of courts be established? Shall a simplified system of local governments be put in the constitution itself?

The constitution of 1870 contains numerous details as to governmental areas, and a number of limitations which have forced the multiplication of local governmental areas. The problems to be dealt with in connection with local areas are so complex that they cannot be adequately handled in a document of permanent application. It is easy to discuss and decide such

matters upon a theoretical basis and to place provisions in a constitution which at the given time seem to meet the situation, but the problems change and the constitutional solution fails because of its rigidity. The constitution of 1848 introduced a good deal of detail as to local governmental areas, and the constitution of 1870 increased this detail. The present constitutional provisions have not operated satisfactorily.

In connection with this discussion, attention should be called to another matter. For years there has been an active discussion of city government, and a somewhat active discussion of the problems of county government is now under way. But the issues of city government or of county government cannot be separated from the other issues connected with the problems of local government in general, and of political areas for other purposes than those of purely local government within the state.

LEGISLATIVE NOTES AND REVIEWS

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Legislative Investigations. Legislative investigations, on which future legislation is to be based, were authorized in 29 states during the sessions of 1918 and 1919. Even though the reports of several of these commissions or committees have been made and acted upon, it seems worth while to give them in the list as they serve to disclose the drift of public sentiment on mooted public questions. The subjects engaging public attention most widely and on which legislators desire further information before enacting laws include highways; the ownership and operation of public utilities; education; the care of the aged, feeble-minded, insane, dependents and delinquents; the judiciary system; pensions, annuities and retirement allowances; public finances; the standardization of salaries of public officials; the development of the water and hydro-electric power of the state; efficiency and economy in the state government; the care of negroes; the oversight of immigrants; taxation; farm tenantry; child welfare, industrial relations, unemployment, housing, strikes, boycotts, lockouts, social insurance and old age pensions; mining; the causes of the prevailing high prices; constitutional changes; and various other miscellaneous subjects of local interest.

Constitutions. The legislative reference bureau of Illinois was authorized to collect data for the constitutional convention which met in 1920; and Pennsylvania provided for the appointment of a commission on constitutional amendments of 25 citizens to study the provisions of the present constitution in the light of modern thought and report to the next legislature.[1]

Courts and the Judiciary. Alabama created a joint legislative committee to conduct an inquiry during the recess of the legislature relative to the reëstablishment of chancery courts, the recircuiting of the circuit courts, the entire judicial system of the state and the publication of

[1] Illinois *Session Laws*, 1919, p. 63; Penn. *Session Laws*, 1919, p. 388.

court reports. Illinois created a metropolitan court commission of 15 members to investigate the organization and operation of the courts of Cook County and Chicago to draft the necessary bills and report to the session of 1921.[2]

Economy and Efficiency. The governor of Delaware is authorized to appoint a commission of five members to make a survey of the state and county offices and report to the next legislature. In New Hampshire, the county convention of any county, by a majority vote of its members, may provide for the appointment of a committee of five of its own members to investigate conditions pertaining to county offices. Montana created a state efficiency and trade commission to investigate the financial and business policies of the state and all institutions supported by state funds, to devise means of correction and to report by November 1, 1919. Oregon created a joint legislative committee to investigate the question of abolishing or consolidating state offices in the interests of economy.[3]

Public finances. The governor of Alabama was authorized to appoint an expert accountant to prepare a complete statement of the financial condition of the state, and a joint committee of two senators and three representatives was created to sit with the budget commission to study and review the financial condition of the state. Idaho appointed a committee of one senator and two representatives to review and audit all state accounts, and a committee of five to investigate the fiscal affairs of the adjutant-general's office.[4]

Taxation. New Jersey provided for the appointment of a commission of two legislators, a member of the state board of taxes and assessment and two citizens to investigate the tax laws of the state and recommend needful legislation; and a second commission of five members of the house, known as the commission for the survey of municipal financing, to study the subject of taxation and public finance. In 1918, a commission for the survey of municipal financing was created, to consist of seven members of the legislative assembly to survey the subject of tax revenues and the expenditures of municipalities, school districts and counties. California in 1919 created a legislative committee to investigate the equalization of taxes and the uncovering of

[2] Alabama *Session Laws*, 1919, pp. 32 and 169; Illinois *Session Laws*, 1919, p. 1016.

[3] Delaware *Session Laws*, 1919, p. 676; New Hampshire *Session Laws*, 1919, ch. 125; Montana *Session Laws*, 1919, p. 347; Oregon *Session Laws*, 1919, p. 831.

[4] Alabama *Session Laws*, 1919, pp. 105 and 110; Idaho *Session Laws*, 1919, pp. 294 and 594.

new sources of revenue to provide additional funds, more particularly for the schools and benevolent institutions. Washington created a commission, consisting of the governor, the tax commissioner, two senators and three representatives to study personal property taxation and report to the next legislature.[5]

Salaries. Illinois provided for the appointment of a salary investigation commission consisting of three senators, three representatives, the lieutenant-governor, the secretary of state, the auditor, attorney-general, director of finance, the president of the state university and one member of the civil service commission to investigate and report to the governor a plan for standardizing salaries, wages, fees and other compensation of all state employees and report by July 1, 1920. In Indiana, the governor was authorized to appoint a commission of four who have special knowledge of living, industrial and wage conditions to classify the salaries and wages of all state house employees, to standardize such salaries and bring them into conformity with salaries and wages in industries.[6]

Pensions. Alabama instructed the legislative budget commission, which is authorized to sit during the recess of the split session, to investigate the subject of Confederate veterans' pensions and recommend such measures as will adequately provide for them during the remainder of their lives. New Jersey created a pension and retirement fund commission of two senators and three representatives to make a survey of the subject of pensions and retirement funds for employees of municipal, county and state governments, including school teachers, and report to the legislature of 1920. Wisconsin created a pension laws commission of five members in each city of the first class to investigate the operation of all pension laws in force therein, the probable future cost and the character of such laws in operation in other states and countries. A legislative committee of two senators and three representatives was appointed to investigate the various systems of pensions, annuities and retirements for teachers in operation and report to the governor before the session of 1921. New York, in 1918, created a commission of seven members, one of whom is the superintendent of insurance, to inquire into the subject of retirement pensions, allowances and annuities for state and municipal officers and employees, especially with reference to the method of establishing and maintaining the

[5] New Jersey *Session Laws*, 1919, pp. 703, 710; 1918, p. 1192; Calif. *Session Laws*, 1919, p. 1546; Wash. *Session Laws*, 1919, pp. 741 and 748.

[6] Illinois *Session Laws*, 1919, p. 134; Indiana *Session Laws*, 1919, p. 419.

fund from which such pensions are paid. The report was to be made on February 1, 1920.[7]

Educational Needs. Alabama provided for the appointment of a commission of five to study the educational system of the state, to determine its efficiency and report by July 1, 1919. In California, a legislative committee of three senators and three representatives was appointed to investigate the needs and cost of education throughout the state and report during the year 1919. A state school commission was created in Arkansas, consisting of the state superintendent as chairman, together with representatives of the civic and social organizations of the state, to study educational needs and conditions and recommend a progressive program of education. Georgia created an illiteracy commission of ten members, including the governor and the state superintendent of schools, to conduct researches and collect data relative to adult illiteracy.[8]

Charities and Corrections. Connecticut created an infirmary commission consisting of the comptroller, commissioner of health, secretary of the state board of charities, the governor and three other persons to investigate the need of a state infirmary for the care and treatment of diseased, deformed and incurable persons, the indigent and aged, the poor of towns having no almshouse and state paupers and report by February 1, 1921. Idaho directed the state affairs committee of the house and senate, by a special committee of its members, to investigate and report on state institutions. Georgia appointed a committee of five to investigate the question of the number and condition of the feeble-minded in the state. Oregon invited the Rockefeller Foundation to make a survey of the treatment and care of the insane, and appointed a committee of six persons to coöperate, and authorized the University of Oregon to investigate dependency, delinquency and defectiveness and the agencies designed for their correction and report to the next legislature.[9]

Roads. The legislative counsel of California was directed to study the existing laws of California and of other states relative to roads,

[7] Ala. *Session Laws*, 1919, p. 67; New Jersey *Session Laws*, 1919, pp. 712 and 1193; Wisconsin *Session Laws*, 1919, chs. 514 and 564. New York *Session Laws*, 1918, p. 1256 and 1919, p. 30.

[8] Ala. *Session Laws*, 1919, p. 27; Calif. *Session Laws*, 1919, p. 1523; Ark. *Session Laws*, 1919, p. 495; Georgia *Session Laws*, 1919, p. 253.

[9] Conn. *Session Laws*, 1919, ch. 235; Idaho *Session Laws*, 1919, p. 615; Georgia *Session Laws*, 1918, p. 921; Oregon *Session Laws*, 1919, pp. 834, 838.

streets and bridges and report bills codifying and amending the California acts on or before November 1, 1920. In Alabama, a joint committee consisting of the president pro tem of the senate, the speaker of the house, three senators and five representatives, was authorized to sit during the recess of the legislature to provide a system for the employment of state and county convicts, especially on the public roads and to consider the whole question of the maintenance and supervision of public roads. In Illinois, a committee of three senators and three representatives was appointed to investigate the whole question of road building material. In West Virginia a constitutional amendment providing for a system of state highways is pending. In the event that this amendment is adopted, the governor is to appoint a committee which, together with the state highway commission and a representative of the national government, is to make such investigations as may be necessary and prepare bills creating a state highway system and report to the legislature of 1921. A commission consisting of two senators, three representatives and one member of the highway commission was created in New Jersey to investigate the construction, maintenance and administration of county and township roads and to codify and supplement the existing laws. In Georgia, a commission of five was created to investigate the needs of highway legislation, to draft a highway commission bill and report to the legislature. Florida created a legislative committee of five members to perfect a plan for a needed system of permanent hard surfaced roads, to ascertain the number of miles now in existence, the probable cost of material, labor and transportation and report to the session of 1919.[10]

Street Railways. Connecticut created a railway investigation commission of three senators, four representatives and five citizens to investigate the conditions of the street railways of the state and report with drafts of bills by April 1, 1919. At the same session the public utilities commission was directed to investigate the conditions under which the street railways are operated and report to the legislature of 1921 with suggested legislation.[11]

Water Power. Maine created a water power commission of ten citizens which is empowered to employ an engineer and conduct an

[10] Calif. *Session Laws*, 1919, pp. 18 and 1539; Ala. *Session Laws*, 1919, p. 69; Ill. *Session Laws*, 1919, p. 1018; West Va. *Session Laws*, 1919, p. 503; New Jersey *Session Laws*, 1918, p. 1197; Georgia *Session Laws*, 1918, p. 923; Florida *Special Session Laws*, 1918, p. 115.

[11] Conn. *Session Laws*, 1919, ch. 3 and p. 2938.

investigation of the water power resources of the state; the flow of rivers; drainage areas; the location, nature and size of lakes and their value and capacity as storage reservoirs; and the generation and transmission of electric power, to determine whether the water resources should be developed by the state or by private capital. New Hampshire appropriated $3500 to complete the investigation commenced under Chapter 256 of the laws of 1917 to determine the amount of water power available on the streams of the state and the best methods of utilizing such power. The work is to be done in coöperation with the national government by a special commission or by the public service commission. South Dakota created a hydro-electric commission to make an engineering reconnaissance of the Missouri River in South Dakota, to determine its feasibility for power sites and select one site for immediate development, and to survey the location selected, to determine its cost and the market for electrical current, and report to the session of 1921. Arkansas provided for the appointment of a commission of three members to study the resources in undeveloped navigation in the state, the unused water power and the reclamation of low lands and report to the next legislature.[12]

State Owned Utilities. Arizona created a legislative committee to investigate the question of financing, constructing and maintaining a state smelter and sampling works and to report to the legislature of 1921. Nevada created a commission of three members to study the feasibility of constructing and equipping a state cement plant and state smelter, and authorized the issuance of $100,000 in bonds to pay for such construction and equipment. Moreover, the University of Nevada is directed to investigate the question of the production and cost of scouring and manufacturing plants and to publish the results in a bulletin. Texas authorized the prison commission to investigate and report on the feasibility of a state owned and operated cement plant including the cost of land and machinery. Kentucky provided for the appointment of a committee of five members of the legislature to investigate and report whether it would be desirable for the state to establish a state bindery and printery to do all the state printing work, including text books used in the schools.[13]

[12] Maine *Session Laws*, 1919, p. 131; New Hampshire *Session Laws*, 1919, ch. 207; South Dakota *Session Laws*, 1919, p. 226; Arkansas *Session Laws*, 1919, p. 502.

[13] Arizona *Session Laws*, 1919, p. 306; Kentucky *Session Laws*, 1918, p. 713; Nevada *Session Laws*, 1919, pp. 193, 481; Texas *Laws*, Second Called Session, 1919, p. 463.

Mines. Illinois provided for the reappointment of a mining investigation commission of three coal miners, three operators and three citizens to investigate the methods and conditions of mining with special reference to the safety of human life and property and the conservation of coal deposits.[14]

Negroes. Maryland created a commission of five members to investigate the question of tuberculosis among negroes, to propose means for its treatment or control and to report to the session of 1920. Missouri established a negro industrial commission of sixteen members, one from each congressional district, to investigate and recommend remedies for the moral and industrial betterment of negroes.[15]

Immigrants. Illinois created an immigrants commission to make a survey of immigrants, alien born and foreign speaking populations, relative to their distribution, conditions of employment, standards of housing and living, their economic, financial and legal customs, their provisions for insurance and other prudential arrangements, their social organization and educational needs.[16]

Farm Tenantry. Illinois also created a farm commission of five members, including the director of agriculture, to investigate conditions regarding the operation and leasing of farm lands, the growth of farm tenantry, the maintenance of the fertility of the soil, crop production and profitable agriculture. The report is to be made on December 20, 1920.[17]

Child Welfare, Industry and Social Insurance. South Dakota created a child welfare commission consisting of the superintendent of public instruction, the superintendent of the state board of health, the president of the woman's board of investigation, the parole officer of the state board of charities and corrections and one citizen, to investigate the condition of children, advise pertaining to their care and instruction, investigate those in industry and advise employers as to the proper labor conditions and enforce the child labor laws. California created a legislative committee to act during the constitutional recess to investigate the question of the unemployment of returned soldiers. In Michigan, an industrial relations commission was created, consisting of representatives of employers and employees, to investigate industrial conditions including unemployment, housing, safety and

[14] Illinois *Session Laws*, 1919, p. 90.
[15] Maryland *Session Laws*, 1918, p. 1025; Missouri *Session Laws*, 1919, p. 82.
[16] Illinois *Session Laws*, 1919, p. 8.
[17] Illinois *Session Laws*, 1919, p. 83.

health of workers, stabilizing of employment, the employment of women and children, vocational education, hours of labor and old age pensions. Washington created an industrial code commission to investigate the evils existing in industrial life, including prevention of strikes, lockouts, boycotts and orderly settlement of disputes, and recommend the proper remedies and report to the next legislature. Indiana created a commission of five citizens to investigate the subjects of child welfare and social insurance.[18]

Prices. Illinois appointed a joint legislative committee to inquire into the prices of building material and determine whether conspiracies or combinations exist, and any other elements which enter into the prevailing high prices. A joint legislative committee in California was authorized to act during the constitutional recess to investigate the high cost of bread, milk, eggs and other necessaries of life. Oregon authorized a joint legislative committee to investigate the cost of the production of milk, butter fat and the cost of condensing and manufacturing milk.[19]

War Records and Memorials. The governor of West Virginia is authorized to appoint a commission of representative citizens to report to the next legislature what records should be compiled and preserved in each county relative to the war and its auxiliary organizations; what tablets, monuments or memorials should be erected and what records should be kept and what memorials erected by the state.[20]

Miscellaneous. Colorado appointed an Italian claims investigating committee of five legislators to investigate the claims against the state by the royal government of Italy for damages and indemnities on account of the alleged loss of life and destruction of property of Italian subjects during the coal mine strike of 1914.[21] The senator and representative from Jefferson County, Alabama, were authorized to sit during the recess of the legislature to report on appropriate legislation concerning the salaries of officers, the cost and results of convict labor on the public highways and other local matters peculiar to Jefferson County.[22] Illinois provided for the appointment of a legislative com-

[18] South Dakota *Session Laws*, 1919, p. 118; Calif. *Session Laws*, 1919, p. 1442; Michigan *Session Laws*, 1919, p. 490; Wash. *Session Laws*, 1919, p. 566; Ind. *Session Laws*, 1919, p. 771.

[19] Illinois *Session Laws*, 1919, p. 998; Calif. *Session Laws*, 1919, p. 1447; Oregon *Session Laws*, 1919, p. 855.

[20] West Virginia *Session Laws*, 1919, p. 240.

[21] Colorado *Session Laws*, 1919, p. 232.

[22] Alabama *Session Laws*, 1919, p. 57.

mittee known as the Zion investigating commission to investigate the charge that The Christian Catholic Apostolic Church of Zion at Zion City and its manager is endowed with divine power, that he advocates a false religion to secure money from innocent persons, also all its business transactions as well as similar information relative to other like institutions.[23] Maine appointed a sea food protective commission to conduct such an investigation as will show that an emergency exists for the passage of federal legislation to reduce the number of sharks.[24] Delaware appointed a commission to view the Indian river inlet and report the cost of opening to the next legislature.[25] Kansas created the Vicksburg National Park memorial commission to recommend a suitable memorial for Vicksburg Park.[26] Maryland created a commission to view the various cemeteries of the state which have been encroached upon and recommend the necessary legislation.[27] Minnesota created The Great Lakes-St. Lawrence Tidewater Commission to investigate the value and feasibility of a project to connect the great lakes with the Atlantic seaboard, and also directed the railroad and warehouse commission to investigate the proper method of requiring purchasers of grain, subject to dockage, to reimburse the producers.[28] New Jersey created a commission to confer with the authorities of New York relative to the establishment of a central port authority.[29] New Hampshire created a commission to consider the purchase by the state of The Old Man of the Mountain.[30] Michigan provided for the appointment of a special commission to investigate the question of sprinkler insurance;[31] and Oregon authorized a legislative committee to investigate the question of the shipbuilding industry.[32] Florida provided for the appointment of a legislative committee to inquire into the question of the handling and sale of agricultural seeds and report a bill to the legislature of 1921.[33] Texas[34]

[23] Illinois *Session Laws*, 1919, pp. 215 and 1007.
[24] Maine *Session Laws*, 1919, p. 200.
[25] Delaware *Session Laws*, 1919, p. 677.
[26] Kansas *Session Laws*, 1919, p. 446.
[27] Maryland *Session Laws*, 1918, p. 749.
[28] Minnesota *Session Laws*, 1919, pp. 765 and 769.
[29] New Jersey *Session Laws*, 1919, p. 709.
[30] New Hampshire *Session Laws*, 1919, ch. 142.
[31] Michigan *Session Laws*, 1919, p. 387.
[32] Oregon *Session Laws*, 1919, p. 843.
[33] Florida *Session Laws*, 1919, p. 358.
[34] Texas *Session Laws*, 1919, p. 9.

appropriated $12,000 to be used by the state board of health in making a house-to-house canvass of one or more counties to obtain exact and scientific data as to health conditions to be used to carry out a state-wide campaign to prevent disease.

C. K.

Special Municipal Corporations. Special municipal corporations continue to be a prolific source of legislation. In 34 states legislating in this field in 1919, there were 1096 acts passed directly concerning 82 varieties of districts which are essentially special municipal corporations, autonomous local governments for a special purpose, and over 75 other acts indirectly affecting such districts or dealing with the somewhat kindred special assessment and special taxing districts.

In general the legislation of 1919 was primarily amendatory. The Conservancy Act of California,[1] the California Irrigation Act,[2] the Irrigation District Act of Nevada,[3] and of Utah,[4] and the Wisconsin Drainage Law,[5] are comprehensive new acts on old subjects, designed to revise the existing law, primarily to provide an adequate method for coöperation between districts and the United States. The California Conservancy Act provides alternative procedure and does not displace any existing law, but the California Irrigation Act, and the Utah and Wisconsin acts revise previous legislation. The Nevada act repeals but one of the existing statutes.

Most of the shorter acts deal with the authorizing or validating of bond issues, raising tax levy limitations, creating special districts designated in the act, curing defects in proceedings for organization, elections, etc., and providing in detail for elections and for the form and issuing of bonds.

Tendencies toward centralization and supervision continue to appear here and there. Under the Conservancy Act of California, if districts are being organized within or partly without territory in which other districts are being organized or already exist, the boards of supervisors of the counties concerned hold a joint meeting to determine to what extent the districts shall be consolidated or boundaries adjusted, thus somewhat modifying the existing tendency to create separate

[1] California *Session Laws*, 1919, ch. 332, p. 559.
[2] California *Session Laws*, 1919, ch. 341, p. 671.
[3] Nevada *Session Laws*, 1919, ch. 64, p. 84.
[4] Utah *Session Laws*, 1919, ch. 68, p. 204.
[5] Wisconsin *Session Laws*, 1919, ch. 557.

districts without regard to what is best for the larger areas. Under the California Irrigation Act, the state irrigation board has power (originally given in 1917, ch. 346) to consolidate into single districts, irrigation, reclamation, and drainage districts and other political subdivisions organized to provide irrigation, reclamation and drainage. The consolidated district is known as a conservancy district, and the chairmen of irrigation, reclamation, drainage, conservancy and other districts constitute an advisory board to consult with the state board. Irrigation bonds when authorized and issued are delivered to the state treasurer and sold by him. They are signed by the president of the state irrigation board on behalf of the irrigation or conservancy district, and are obligations of the district. Rates established by conservancy districts for supplying water are subject to approval of the state railroad commission. Regulation of ditches by districts is subject to the approval of local or state health officers.

In Washington, in the case of irrigation districts,[6] at the hearing on the question of organizing a district, the state hydraulic engineer sits with the board of county commissioners. In Wisconsin the railroad commission may approve or amend drainage district plans for work in navigable waters and streams, and may hold a hearing on the question.[7] In Utah, for irrigation districts, the state engineer is required to make the preliminary survey before a district is organized.[8] He reports to the board of county commissioners, which has charge of the proceedings.

A few new purposes for which these districts may be created are found in the legislation of the past year. Kansas authorizes the formation of railroad aid benefit districts,[9] consisting of townships or part of townships or the whole of a county, for the purpose of making subscriptions to railroad stock to aid in the construction of railroads in and through such districts, in case it is not practicable to issue township bonds therefor. The district is incorporated, and may issue bonds for the purpose up to twenty per cent of its assessed valuation, when authorized at a special election. A similar act applies to townships without this special form of organization.

Nebraska has provided for the organization of light, heat and power districts[10] for the purpose of distributing light, heat and power by the

[6] Washington *Session Laws*, 1919, ch. 180, p. 527.
[7] Wisconsin *Session Laws*, 1919, ch. 557.
[8] Utah *Session Laws*, 1919, ch. 68, p. 204.
[9] Kansas *Session Laws*, 1919, ch. 240, p. 317.
[10] Nebraska *Session Laws*, 1919, ch. 217, p. 929.

use of electric current. The district is a special municipal corporation, formed on affirmative vote of the electors of the district, which may lie in one or more counties. A governing board of directors is elected at the annual district meeting. The district provides merely the distributing system, securing its current from private producers.

Arizona, although having provided for electrical districts in any county, in 1915, has now authorized the creation of power districts[11] to consist of agricultural lands which are susceptible of cultivation by the same general system or by individual systems of works for the generation or distribution of power.

Nevada authorized the creation of special assessment districts which are not corporations. The state reclamation and settlement board, created by the act, may establish reclamation and settlement districts[12] for the purpose of providing, improving and equipping rural homes for soldiers, sailors, marines, and others who have served with the armed forces of the United States in the European war and other wars of the United States, and for other loyal citizens. The state board may contract with the national government or with irrigation or drainage districts for the reclamation of the land; may acquire land in the name of the state; may dedicate land for schools, churches, roads, and other public purposes, and may open such town sites as may be deemed desirable or authorized by contract with the United States. Land in the district pays a special assessment for reclamation and settlement purposes, but no mention is made of any local autonomy.

Florida authorized the creation of a stump and land clearing district in Clay county; inlet districts, to connect the waters of certain rivers with the Atlantic Ocean; special navigable canal districts; and created the Winter Haven Lake Region Boat Course District.[13]

Texas authorized the formation of a new kind of conservation district, or fresh water supply district, for the purpose of conserving and distributing fresh water from lakes, reservoirs, wells, springs and rivers for domestic or commercial purposes.[14]

In some of the details of organization and government of these special municipal corporations there are several amendments of interest. California in connection with irrigation districts and conservancy

[11] Arizona *Session Laws*, 1915, ch. 49, p. 97; 1919, ch. 173, p. 312.
[12] Nevada *Session Laws*, 1919, ch. 191, p. 343.
[13] Florida *Special Session Laws*, 1919, pp. 146, 157, 173, 249, 1492.
[14] Texas *Session Laws*, 1919, ch. 48.

districts provides that for elections on the question of organizing a district, choosing directors or authorizing bond issues, land owners may vote by proxy. In irrigation districts each owner has one vote for each acre of land owned in the district; in drainage districts, one vote for each one cent of assessment against his land.[15] In Nevada a corporation is a person under the election law of irrigation districts, and may vote through its authorized agent under the same conditions as real persons.[16]

Two other provisions are new. Hitherto it has usually been required that the territory of which a district may be formed must be contiguous and compact. For conservancy districts and irrigation districts in California[17] and drainage districts in Wisconsin[18] territory in a district need not be contiguous or all in one body, provided that it be so situated that public health and welfare will be promoted by the irrigation or drainage of each separate body of land by individual systems.

Hitherto a district has not been permitted to include territory of any other districts of similar name and similar purpose. The conservancy law of California, however, provides that territory may be included in more than one conservancy district.[19] Since these districts are combinations of irrigation, reclamation and drainage districts, or possess these combined purposes, it is probable that territory would not be included in two districts for identically the same limited purpose.

Irrigation districts[20] in California are authorized to provide for the development of electrical power, and to sell the power to municipalities, corporations, public utility districts or individuals, thus acquiring a purpose similar to that of the electrical and power districts of Arizona.

In California, conservancy districts may be formed for forestation or reforestation of lands when that is necessary and incidental to the conservation and control of flood waters.[21] In addition to more than 700 reclamation districts established in California under general laws, thirteen larger districts have been created by special laws and given

[15] California *Session Laws*, 1919, ch. 332, pp. 559, 565; ch. 341, sec. 10; ch. 520, p. 1092, ch. 341, p. 671.

[16] Nevada *Session Laws*, 1919, ch. 64, p. 84.

[17] California *Session Laws*, 1919, ch. 332, pp. 559, 561; ch. 341, p. 671, sec. 6b; ch. 344, p. 714, sec. 1.

[18] Wisconsin *Session Laws*, 1919, ch. 557.

[19] California *Session Laws*, 1919, ch. 332, pp. 559, 593, sec. 61.

[20] California *Session Laws*, 1919, ch. 370, p. 778.

[21] California *Session Laws*, 1919, ch. 332, pp. 559, 596, sec. 67.

arbitrary numbers, one such district established in 1919 being No. 2031.[22]

The Metropolitan Park District of Washington is given, among other powers, that of establishing and maintaining aviation landings.[23]

In the legislation of 1919, there were no less than 83 different names given to the various types of districts. In California there were 16 classes of districts, each with a different name; and in Arizona, Illinois, Nebraska, New York and Washington, there were from five to seven different kinds of these special districts in each state.

To some extent the large number of names is due to variations in the terms for districts with similar or closely related functions; and most of the numerous titles may be classified in a few main groups. But there are frequently a number of specialized terms for different districts of the same group in the same state; and the functions of other kinds of districts frequently overlap.

Thus there are 17 varieties of school districts[24] (in 24 states),[25] as many as 4 or 5 varieties in the same state. There are drainage districts in 13 states,[26] and irrigation districts in 11 states[27] (6 states having both kinds); and also diking districts in Washington, drainage improvement districts and mosquito abatement districts in California, levee districts in California and Tennessee, reclamation districts in California, Indiana and Washington, reclamation and settlement

[22] California *Session Laws*, 1919, ch. 338, p. 658.

[23] Washington *Session Laws*, 1919, ch. 135, p. 382.

[24] The names by which school districts are designated in the 1919 legislation are as follows:—community high school district, community consolidated school district, consolidated rural school district, consolidated school district, county school district, educational districts, high school district, independent school district, joint high school and elementary school district, metropolitan school district, public school district, rural agricultural school district, rural school district, special independent or common school district, special school district, union free school district, and union school district. The use of the term "community" in designating school districts is new. The particular purpose of each district is sufficiently indicated by its name.

[25] Alabama, Arizona, California, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Kansas, Montana, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New York, North Dakota, Tennessee, Washington, West Virginia and Wisconsin.

[26] California, Colorado, Idaho, Illinois, Iowa, Kansas, Missouri, Nevada, Oregon, Wyoming, Tennessee, Utah and Wisconsin.

[27] Arizona, California, Colorada, Idaho, Montana, Nebraska, Nevada, Oregon, Utah, Wyoming and Washington.

districts in Nevada, sanitary districts in California and Illinois, sanitary drainage districts in Nebraska, and inlet districts, navigable canal districts and a boat course district in Florida.

Water districts are provided for in five states (Arizona, Colorado, Illinois, Maine and New York), and also conservancy and county water districts, municipal water districts and storm water districts in California, water improvement districts and fresh water supply districts in Texas, and a metropolitan water district in Nevada.

Road districts are found in Florida, Illinois, Missouri and Nebraska; bridge districts in Florida, Maine, Missouri and Oklahoma; boulevard districts in California, good roads districts in Michigan, highway districts in Idaho and Wisconsin, and independent highway districts in Washington.

Park districts are established in Illinois and Indiana; also a forestry preserve district in Illinois, a forest fire district in California, and a metropolitan park district in Washington.

Other special districts deal largely with other public improvements and public utilities. There are electrical districts and power districts in Arizona, fire districts in Connecticut and New York, lamp and lighting districts in New York; light, heat and power districts in Nebraska; special municipal tax districts, municipal improvement districts, protection districts and public utilities districts in California; municipal districts in Connecticut and Montana, health districts in Michigan and New York, paving districts in Nevada, sewer districts in four states (California, Connecticut, Maine and New York), port districts in Oregon, and railroad aid benefit districts in Kansas.

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Anti-Syndicalist Legislation. Recent state criminal syndicalist legislation appears in the two general forms of anti-red flag laws and laws defining the crime of criminal syndicalism or of sedition. Many states have a flag law, often of war time origin, "to prevent the desecration of the flag of the United States" or to forbid carrying any flag in a parade unless the American flag is carried ahead of it, or displaying any flag unless the American flag is displayed above it. A Massachusetts law of 1913 is of dual character. Section one allowed the carrying in parade only of the national flag, a state flag, or the flag of a friendly foreign nation. This section, though now common in other flag legislation, was repealed within one month. Section two is still in

force and is typical of syndicalist flag legislation: "No red or black flag, and no banner, ensign, or sign, having upon it any inscription opposed to organized government, or which is sacrilegious, or which may be derogatory to public morals" shall be carried in parade. In 1914 Rhode Island enacted that no flag shall be carried in any parade unless accompanied by the flag of the United States; and followed this with the substance of the Massachusetts section two, omitting only the sacrilegious item.

During 1919 twenty-four states passed syndicalist legislation in the form of flag laws or flag sections of other laws. The southern line of such legislation includes South Carolina, West Virginia, Ohio, Indiana, Illinois, Arkansas, Oklahoma, Colorado, Arizona and Washington. Along the Atlantic are Rhode Island (with further flag legislation in her new sedition law), Connecticut, Vermont, New York, New Jersey and Delaware. The others are Michigan, Wisconsin, Minnesota, Iowa, South Dakota, Kansas and the mountain states of Montana and Idaho. The laws of Colorado, Michigan and New York apply to red flags only. The laws of Connecticut, Idaho, Iowa, Kansas, Montana, Oklahoma and Wisconsin apply to red flags or other emblems. Montana's statute reads "red flag, red banner, or red emblem, commonly accepted as symbolic of social or industrial revolution, or any flag, banner, or emblem bearing words, inscriptions, or representations opposed to organized government . . ." The Kansas title is "An act relating to the flag, standard, or banner of Bolshevism, anarchy, or radical socialism . . ."

While some of the laws merely state reasons for prohibition of the display of the flag, others limit the prohibition to display for a given purpose. Thus the Wisconsin law forbids display of the red flag or any other emblem symbolizing or intended to symbolize "a purpose to overthrow, by force or violence" or by injury to property, the government of the United States, or of the state of Wisconsin, or all government. Oklahoma describes (or limits) the banners forbidden as those "indicating disloyalty or a belief in anarchy or other political doctrines" whose objects are disruption of organized government or defiance of the laws. The Connecticut law forbids display "as a symbol calculated to, or which may, incite people to disorder or breaches of law." The *Yale Law Journal* comments on this: "And the Harvard game approaches in New Haven—if not this year, then next!"

Minnesota forbids all display of "any red or black flag," except for use by a railroad as a signal, or on a public highway as a warning.

Other states that specify "any red or black flag" and add "or any flag or emblem or sign" are Arizona, Delaware, Massachusetts, New Jersey, Ohio, South Carolina, Vermont and West Virginia. Illinois covers the ground briefly with a paragraph in her sedition law forbidding the display of any flag or emblem to symbolize a purpose to overthrow the representative form of government by force, violence, or injury to person or property. Indiana had used nearly the same words in section one of her combined flag and sedition law, but included also among the forbidden purposes the overthrow of government by the general strike. The Vermont law forbids displaying a red flag except as a danger signal, a black flag except as a weather signal, or any banner or sign opposed to organized government or public morals, or sacrilegious. The flag clause in Rhode Island's new sedition law says "wilfully display" as "symbolic or emblematic" of a form of government proposed as preferable to that prescribed by the constitution. The Arkansas statute declares it to be unlawful to wear or display any symbol or flag to encourage or calculated to aid anyone in injuring life or property, or in the overthrow of government without due process of law. The Kansas statute makes it felony to display any flag, standard, or banner, of any color or design that is now or may hereafter be designated as the flag, standard, or banner of Bolshevism, anarchy, or radical socialism.

Colorado, by a separate section, makes it the duty of all peace officers to see that her flag law is "strictly enforced." Iowa changes the crime from a misdemeanor to a felony if the party carrying a forbidden flag is found to be armed. Massachusetts and Ohio specifically authorize the arrest of flag law violators without a warrant. Ohio exempts college pennants from the application of the law.

The flag law of Washington is broader in scope and has more sections (five) than any other. It forbids display, ownership, or possession of any "flag, banner, standard, insignia, badge, emblem, sign, or device of, or suggestive of, any organized or unorganized group of persons who, by their laws, rules, declarations, doctrines, creeds, purposes, practices, or effects, espouse, propose or advocate any theory, principle, or form of government antagonistic to, or subversive of, the constitution, its mandates, or laws of the United States or of this state." Violation is felony; and every article kept or owned in violation of this act is declared to be pernicious and dangerous to the public welfare, and subject to be searched for and destroyed. It is not to apply to flags or emblems of nations with accredited representatives in the United States, nor to historical museums of recognized character.

Violation of the flag law is a misdemeanor in the following states, which are arranged nearly in the order of increasing severity of penalty: Ohio, South Carolina, Wisconsin and South Dakota; Massachusetts and Rhode Island; Connecticut and Vermont; New York, Arizona, Arkansas and Iowa. In West Virginia the first offense is a misdemeanor and the second is a felony. Indiana, Illinois, Oklahoma, California, Washington, Michigan, Minnesota, Montana and Idaho make the offense a felony. Fines range from $1000 to $5000. Prison terms range from one to five or ten years. New Jersey and Delaware call the crime a high misdemeanor, and in both the penalty is a fine up to $2000, or imprisonment up to fifteen years, or both.

The federal sedition law of 1798 provided penalties for conspiring to oppose the government, intimidate any official, or advise rioting; and for "false, scandalous, and malicious writing against the government with intent to defame it or bring it into contempt." An act of the Philippine Commission in 1901 defined the crimes of treason, insurrection, and sedition. It was amended in 1907 by an act "to prevent the utterance of speeches or the use of language violative of good order or tending to disturb the public peace."

New York made the advocacy of criminal anarchy a felony in 1902; and defined it as the doctrine that organized government should be overthrown by force or violence, or by assassination, or by unlawful means. In Alaska a statute of 1913 makes it a misdemeanor to incite another to commit a crime. These facts are presented as introductory to a discussion of the recent sedition laws, often styled criminal syndicalism legislation.

"An Act defining the crime of criminal syndicalism and prescribing the punishment thereof," is the title of a bill vetoed by the governor of Washington on March 2, 1917, and passed over the veto early in the next legislative session (January 14, 1919). Idaho (March 14, 1917) and Minnesota (April 13, 1917) passed measures with title and contents nearly identical with that of Washington. They all followed very closely the model of the New York criminal anarchy bill, but dealt with criminal acts as means of accomplishing industrial as well as political ends. In 1918 the governor of Arizona vetoed a sabotage bill; and South Carolina, South Dakota and Montana passed measures "relating to criminal syndicalism" that are similar to the three earlier laws. "Social, economic, industrial, or political ends," are those now specified in the South Carolina law. Montana also passed a war time sedition act, which she reënacted in 1919 without the war time limita-

tion. Nebraska in 1918 passed a lengthy sedition act, applying to cases "with intent" to hinder the war; and a war time sabotage act.

During 1919, laws of this general nature were passed by twenty other states and by Hawaii. Also Washington passed a new law, slightly varied in outline but with new title and changed phraseology, a section of which repealed the once vetoed statute. North Dakota had a war time sabotage act, passed by the special session of 1918. In December, 1919, the legislature, by a two to one vote defeated a criminal syndicalism bill.

Twenty-five states have sedition laws that are primarily aimed at, or that are adapted to, the emergency of syndicalist activity, as follows: Rhode Island, Connecticut, New Hampshire and Vermont; New York and Pennsylvania; South Carolina, Arkansas, Oklahoma and New Mexico; West Virginia, Ohio, Indiana, Michigan, Illinois, Iowa, Minnesota and South Dakota; Montana, Wyoming, Utah and Idaho; Washington, Oregon and California.

The general character of this legislation may be seen in the titles of the acts. Two groups of titles show a tendency towards simplicity and uniformity of phrasing. In one of these the term used is "criminal syndicalism;" in the other it is "sedition." Then there is a miscellaneous group where the titles are varied and more wordy. The New York law was "An act to amend the code relative to criminal anarchy." The first Washington title was "An act defining the crime of criminal syndicalism." This is also the title used by Idaho, Ohio, Iowa, Hawaii, and Michigan. Minnesota and South Dakota have "An act relating to criminal syndicalism." Montana has "An act defining criminal syndicalism and the word sabotage." This title has been copied by Oregon, Utah, Oklahoma and California. Montana first used for this class of legislation the title "An act defining the crime of sedition." Connecticut has "An act concerning sedition," and also "An act concerning seditious utterances." Pennsylvania makes it "An act defining sedition," and New Hampshire, "to prevent the overthrow of government by force." Other forms of title are: "to protect the government of the state of Rhode Island and the government of the United States;" "to prevent the promotion of anarchy" (Vermont); "to define and punish anarchy and to prevent the introduction and spread of Bolshevism and kindred doctrines" (Arkansas); "defining the offence of incitement to crime and unlawful assemblies" (Wyoming); "prohibiting the performance of any act designed to destroy organized government" (New Mexico); "making it unlawful to advocate the

overthrow of the government of the United States, the state of Indiana, or all government."

While a number of states have included sabotage in the definition of criminal syndicalism, others have defined them separately. Montana put both terms into the title of her first law. Washington enacted two laws on March 19, 1919. One has the heading "Crime of Sabotage" and is entitled "An act to protect certain industrial enterprises wherein persons are employed for wage, and to prevent interference with the management or control thereof, and to prohibit the dissemination of doctrines inimical to industry . . . ." The other is given the heading "Prevention of Criminal Syndicalism;" and the title is "An act relating to crimes, providing penalties for the dissemination of doctrines inimical to public tranquility and orderly government." The West Virginia title is "An act to foster the ideals, institutions, and government of West Virginia and the United States and to prohibit the teaching of doctrines and display of flags antagonistic to the spirit of their constitution and laws."

New York in 1902 defined criminal anarchy as "the doctrine that organized government should be overthrown by force or violence, or by assassination . . . . or by unlawful means." Section one reads "Any person who: (1) . . . . teaches the duty, necessity, or propriety of overthrowing . . . . organized government by force or violence, or by assassination . . . ; (2) Prints, ... circulates . . . . or publicly displays any . . . . written or printed matter . . . . teaching . . . ; (3) Openly, wilfully, and deliberately justifies . . . . with intent to teach . . . . the propriety of the doctrines of criminal anarchy; or (4) Organizes . . . . or voluntarily assembles with any society . . . . to teach or advocate such doctrine, is guilty of a felony." Sections two and three declare any assemblage to advocate such doctrines unlawful and make liable the owner of any building so used.

The first Washington statute (the model for several others) defines criminal syndicalism as "the doctrine which advocates crime, sabotage, violence, or other unlawful methods of terrorism as a means of accomplishing industrial or political reform." Any person—who teaches the duty or necessity of these; circulates any written or printed matter teaching reform, etc. by crime, etc.; justifies crime by word or writing with intent to advocate propriety of criminal syndicalism; or organizes or assembles with any society to advocate criminal syndicalism—is guilty of felony. Two or more meeting to advocate such doctrine

make an unlawful assembly, every member of which is guilty of felony. Knowingly to permit the use of premises for such meeting is a misdemeanor.

Two months after this act passed over the veto, it was replaced by two laws. By the new sabotage act, whoever, with intent to interfere with any "agricultural, stockraising, mining, quarrying, fishing, manufacturing, transportation, mercantile, or building enterprise wherein persons are employed for wage," shall injure or threaten to injure "any property whatsoever" is guilty of felony. It is also felony to teach, or justify, or circulate matter, or organize, or assemble, to help advocate what is made unlawful by the act. By the new criminal syndicalism act whoever shall advocate "crime, sedition, violence, intimidation, or injury, as a means . . . . of affecting or resisting any industrial, economic, social, or political change," or organizes, gives aid, or assembles with any group to do this, is guilty of felony.

Arkansas briefly enacts that it is unlawful to write, speak, or print anything intended to encourage injury to life or property without due process of law, or to spread what tends to destroy the government of Arkansas or of the United States by violence or unlawful means. Indiana enacts a preamble about the importance of liberty and free speech, the dangers from the advocacy of anarchy and sabotage, and the warning to be taken from recent occurrences in Russia. Therefore it is made unlawful to advocate the overthrow, by force or violence or by injury to property, "or by the general cessation of industry," of the government of the United States or of Indiana, or of all government. New Hampshire, by a brief, comprehensive act, forbids all advocacy of change in the form of federal or the state government, or interference with public or private right, by force or unlawful violence. The Connecticut law forbids speaking or exhibiting "any disloyal, scurrilous, or abusive matter," concerning the form of government of the United States, its military forces, flag, or uniforms, or anything intended to bring them into contempt, or foster opposition to organized government. West Virginia forbids all teaching "in sympathy or favor of ideals, constitutions, or forms of government . . . . antagonistic to those now or hereafter existing under the constitution and laws of this state or the United States, or in favor of crime, violence or terrorism for economic or political reform." Oklahoma's statute adds "or for profit" to the list of forbidden ends.

With Arkansas and West Virginia perhaps the only exceptions, the violation of the criminal syndicalist statutes other than flag laws is a

felony. A second offense in West Virginia is a felony. Maximum fines range from $1000 to $10,000, and maximum prison terms from three years to twenty-five years. In nearly every case both fine and imprisonment are authorized. The heavier penalties are found in Rhode Island, New York, Pennsylvania, South Carolina, Ohio, Michigan, Illinois, Oklahoma and California.

Other legislation to offset syndicalist and revolutionary agitation includes laws relating to the use of foreign languages and laws establishing a constructive program of education in citizenship and American government. In addition to such laws already noted in this REVIEW, Pennsylvania in 1919 passed three statutes which provide for "instruction conducive to the spirit of loyalty and devotion to the state and national governments," in all the schools, and made special provision for instructing the foreign born in citizenship and government. An Oregon law, passed at the special session of the legislature in 1920, aimed especially at a Finnish radical paper, provides that: "It shall be unlawful for any person to print, . . . display, sell, or offer for sale any newspaper or periodical in any language other than the English unless the same contains a literal translation thereof in the English language of the same type and as conspicuously displayed."

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Regulation of Social Diseases. The effect of the war on public opinion and on the *mores* of the American people is most clearly reflected in the legislation on the subject of venereal diseases. Not many years ago, this subject was ignored by all classes of people, except in vulgar jest, not only by polite and conventional society but by most clear-thinking and well-intentioned minds. It was a subject to be spoken under a bated breath, and written about only in scientific treatises in foreign languages. Even in the medical profession, professional ethics made such diseases the sacred secrets of the physician's "confessional," and professional policy usually prevented the disclosure to the patient as well as to the public. Parental prudity and time-honored custom kept adolescents in the dark concerning the devastating nature of these diseases, and, contrary to the rule, the unknown was not feared. Although the contagious nature of these diseases became known to medical science after the establishment of their germ origin, they were not placed in the category of contagious and infectious diseases like small-pox and diphtheria. A few safeguards—the abolition

of the public drinking cup and the roller towel—were imposed in many states, but there prevention rested, while practical police methods in dealing with prostitution actually encouraged the spread of venereal diseases.

The power of the national government, under war time conditions, dispelled the former views as to the necessity of "the most ancient of professions," and demonstrated that an army of millions of men might be raised without subjecting the young men of the country to exposure to a terrible epidemic. The success of the war department undoubtedly encouraged the new legislation checking the ravages of venereal disease, and our state authorities display every indication of thoroughgoing coöperation with the United States public health service in clinics and propaganda.

Sixteen states (Colorado, Florida, Georgia, Iowa, Michigan, Montana, Nebraska, New Jersey, New York, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Utah and Washington)[1] have passed similar laws covering the situation rather completely, providing for examination, reporting, and treatment of syphilis, chancroid, and gonorrhea. The Iowa law provides that physicians and hospital superintendents shall report, on forms supplied by the state board of health, every case of venereal disease which they discover in their practice, with a penalty attached for failure to do so and with a further penalty for the patient who gives false information concerning his previous history. The local board of health is given all powers, in relation to venereal diseases, already given to prevent the spread of other contagious, infectious, or communicable diseases. General publicity is alone excepted, and records are open to inspection only by the infected person, physicians, and public officers in performance of their official duties, and are to be destroyed at the end of one year after the disease has been pronounced cured. (Massachusetts[2] alone extends this period to five years.) Suspects may be examined,

[1] Colorado *Session Laws*, 1919, ch. 57; Florida *Session Laws*, 1919, p. 92; Georgia *Session Laws*, 1918, ch. 275; Iowa *Session Laws*, 1919, ch. 299; Michigan *Session Laws*, 1919, ch. 272; Montana *Session Laws*, 1919, ch. 106; Nebraska *Session Laws*, 1919, ch. 265; New Jersey *Session Laws*, 1918, ch. 253; New York *Session Laws*, 1918, ch. 264; 1919, ch. 40; North Dakota *Session Laws*, 1919, ch. 237; Oklahoma *Session Laws*, 1919, ch. 17; Oregon *Session Laws*, 1919, p. 407; South Carolina *Session Laws*, 1919, p. 30; South Dakota *Session Laws*, 1919, ch. 284; Utah *Session Laws*, 1919, ch. 52; Washington *Session Laws*, 1919, ch. 114; Wisconsin *Session Laws*, 1919, ch. 331.

[2] Massachusetts *Session Laws*, 1918, ch. 96.

quarantined, and disinfected, and the county supervisors are authorized to establish and maintain isolation and detention hospitals for infected persons. While certificates of freedom from venereal diseases may be given for proper purposes, they may not be issued except with safeguards against their use in solicitation and prostitution. Druggists and others, not licensed medical practitioners, are forbidden to prescribe or recommend drugs for treatment. Local boards of health in these states are also given authority to make rules and regulations for the enforcement of these provisions, and are required to coöperate with the state boards.

Missouri and New York[3] have established separate bureaus for these diseases. Missouri's law simply declares these diseases to be contagious and places them under the regulations of the state board of health, creating a separate division thereof, named "preventable diseases," including tuberculosis, child hygiene, and venereal diseases, with full powers for enforcing measures of prevention. New York has gone into more detail as to prevention measures, and vests their enforcement in the state board of health, creating therefor a bureau of venereal diseases.

Colorado[4] authorizes the erection of a state detention home for women, for the confinement and free treatment of women suffering with venereal diseases. An inspector or agent of the state board of health may order commitment of any female reported by a licensed physician, but the woman may demand trial and the district and county courts are given original jurisdiction in all cases under this act. Voluntary patients are admitted on application. Illinois[5] permits counties or cities to provide for segregation and treatment of venereal cases and maintenance of hospitals, sanitaria, and clinics therefor or departments for treatment in existing hospitals.

Another group of states (California, Connecticut, Delaware, Nebraska, New Hampshire, and Oklahoma)[6] have enacted similar but less detailed laws, providing for the examination of persons convicted on

[3] Missouri *Session Laws*, 1919, p. 372; New York *Session Laws*, 1918, ch. 342.
[4] Colorado *Session Laws*, 1919, ch. 60.
[5] Illinois *Session Laws*, 1919, p. 589.
[6] California *Session Laws*, 1919, ch. 165; Connecticut *Session Laws*, 1919, ch. 77; Delaware *Session Laws*, 1919, ch. 53; Massachusetts *Session Laws*, 1918, ch. 96; Nebraska *Session Laws*, 1919, ch. 265; New Hampshire *Session Laws*, 1919, ch. 163; Oklahoma *Session Laws*, 1919, ch. 17; New York *Session Laws*, 1919, ch. 40; South Carolina *Session Laws*, 1918, p. 890; 1919, p. 31.

charges of prostitution, and for reporting cases of venereal disease by physicians. Massachusetts and South Dakota[7] make compulsory the examination of inmates of all prisons, state, county, or city, and the treatment of cases found therein.

Two states (Michigan and New Jersey)[8] have enacted preventive measures in connection with foodstuffs. Michigan prohibits the employment of persons affected with infectious or venereal disease in bakeries, restaurants and other places manufacturing, preparing, or serving food or drink, and requiring the examination of employees of such establishments at the order of any local health officer. The same regulation governs cigar factories. New Jersey has the same prohibitions on handling milk or manufacturing milk products, and on persons engaged in nursing or the care of children or the sick.

Massachusetts[9] takes the further step of attacking the rule of medical ethics relating to secrecy in respect to venereal diseases, by authorizing physicians and surgeons to disclose information pertaining thereto to parents or guardians of any minor from whom the infected person has received a promise of marriage. This disclosure is optional and not mandatory, but, if given in good faith, cannot constitute a slander or libel. Maine and Oklahoma[10] go still further, and prohibit the marriage of infected persons, making it unlawful for such infected persons to fail to report to a physician for examination and punishing physicians for issuing false certificates of freedom from disease. Alabama[11] makes compulsory the examination of males before marriage and prohibits infected men from marrying.

One instance of the difficulties encountered by the national authorities in their campaign for public knowledge concerning these diseases, is to be found in the suppression of such knowledge by state laws against literature and pictures on "obscene subjects." Pennsylvania,[12] for instance, forbids the advertisement of treatment with no exception. Massachusetts[13] withdraws its prohibition on publishing and distributing such literature issued or permitted to be issued by the state and

[7] Massachusetts *Session Laws*, 1918, ch. 58; South Dakota *Session Laws*, 1919, ch. 284.

[8] Michigan *Session Laws*, 1919, ch. 25, ch. 353; New Jersey *Session Laws*, 1918, ch. 253.

[9] Massachusetts *Session Laws*, 1918, ch. 111.

[10] Maine *Session Laws*, 1919, ch. 41; Oklahoma *Session Laws*, 1919, ch. 17.

[11] Alabama *Session Laws*, 1919, p. 169.

[12] Pennsylvania *Session Laws*, 1919, p. 1084.

[13] Massachusetts *Session Laws*, 1918, ch. 237.

municipal authorities; and Connecticut [14] allows pictures showing the effects of venereal diseases upon order of a health board.

California, Kentucky, Utah, Virginia and West Virginia,[15] following the above-mentioned states in prohibiting treatment of venereal diseases by others than licensed physicians, specifically forbid the advertisement of remedies for syphilis or gonorrhea, or places or persons treating them except by boards of health.

Many of these states and some others have already evinced their willingness to enter into coöperation with the national government in enlightening the people and suppressing venereal disease. Arkansas, California, Indiana, Iowa, Montana, Nebraska, New Hampshire and New York have made appropriations for this purpose to their state boards of health, ranging in amount from $5000 to $50,000.

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[14] Connecticut *Session Laws*, 1919, ch. 329.

[15] California *Session Laws*, 1919, ch. 294; Kentucky *Session Laws*, 1918, ch. 174; Utah *Session Laws*, 1919, ch. 53, 54; Virginia *Session Laws*, 1919, ch. 373; West Virginia *Session Laws*, 1919, ch. 73.

JUDICIAL DECISIONS ON PUBLIC LAW

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Amendment to Federal Constitution—Meaning of "Two Thirds" of Each House of Congress Necessary for Proposal—Restraining State Governor from Submitting Amendment to Legislature for Ratification. State of Ohio v. Cox (United States District Court, January 4, 1919, 257 Fed. 334). This was a taxpayers' action brought in behalf of the relator and other citizens of Ohio and of the United States to restrain the governor of Ohio from transmitting to the Ohio legislature for ratification the Eighteenth Amendment to the United States Constitution. The court first directs its attention to the question of its own jurisdiction to try this case and decides that that jurisdiction is lacking. This is true for the reason that the plaintiff has not shown that the necessary jurisdictional amount of $3000 is involved in the case. The court also declares that this is not a proper case for the granting of injunctive relief. The governor of the state is not charged by the Constitution of the United States with the duty of transmitting the proposed amendment to the legislature for ratification. In so doing he acts quite informally and the plaintiff cannot allege that any injury which might possibly result to him from the final ratification of the amendment is due directly to the act of the governor. After the amendment is transmitted to the legislature, there is still an opportunity to bring pressure to bear to prevent its ratification by the Ohio legislature and there is the further possibility that the Ohio legislature and other legislatures may fail to ratify so that the injury feared by the plaintiff may never occur. The court then turns to the specific grounds on which it was alleged that the amendment was illegally proposed. The first of these contentions was that the amendment was proposed by a two-thirds vote not of the entire membership of both houses of Congress but a two-thirds vote merely of the members of both houses present at the time the vote was taken. The court decided that a two-thirds vote of a quorum of each house of Congress was the vote required by the terms of Article V of the federal Constitution. In

support of this view it cited the resolutions passed by the senate in 1861 and 1869 and by the house in 1899. It pointed out further that both the fourteenth and fifteenth amendments were proposed by two-thirds of the members present rather than two-thirds of the full membership. The court also disposed of the argument that the eighteenth amendment violates the tenth amendment by invading the reserved authority of the states. It points out that reserved powers which belong to the states are called reserved because they have never been surrendered to the federal government and that when the requisite number of states concur the Constitution may be so amended as to surrender to the central government additional powers.

Amendment to Federal Constitution—Referendum. In re Opinion of the Justices (Maine, 1919, 107 Atl. 673); State *ex rel.* Muller v. Howell (Washington, May 24, 1919, 181 Pac. 920). These two decisions present a square conflict of judicial opinion upon the interesting question whether or not a joint resolution by a state legislature ratifying an amendment to the United States Constitution is subject to popular referendum, like any other act of the legislature, under the constitutional provisions governing the initiative and referendum. The supreme court of Maine replied to a question of the governor that the joint resolution by which the Maine legislature had ratified the Eighteenth Amendment could not be referred to the people even though a petition for such referendum was duly filed. Two main reasons were given in support of this opinion. In the first place such referendum would be improper under Article V of the federal Constitution relating to amendments. The proposal and ratification of amendments to the United States Constitution is governed wholly by the provisions of that document. The states retain no discretion in the matter of the method of such ratification. The people retain no direct power to ratify an amendment, but the ratification must be made either by the legislature of the state or by ratifying conventions according as Congress may require the one or the other method. In the case of the Eighteenth Amendment, as in the case of its predecessors, ratification by state legislatures was specified when the amendment was proposed by Congress. Accordingly when the legislature of Maine passed its resolution of ratification that ratification was "complete, final, and conclusive" so far as that state was concerned.

It has been established by practice that a ratification once made by a state legislature cannot be rescinded by a subsequent legislature.

Ohio and New Jersey both attempted to withdraw their ratifications to the Fourteenth Amendment, and New York tried to withdraw its ratification of the Fifteenth Amendment. None of these attempts was successful. Equally fruitless would be any attempt on the part of the people of the state to withdraw the ratification passed in the regular way by the legislature of the state. In the second place the joint resolution in question is not subject to referendum under the provisions of the constitution of Maine relating to the initiative and referendum. It has been established that the referendum is applicable only to legislation. "This resolution, ratifying the proposed constitutional amendment, was neither a public act, a private act, nor a resolve having the force of law. It was in no sense legislation. It was not signed by the Governor, nor could it have been vetoed by him." It is, therefore, in the judgment of the court not within the scope of the referendum as that system is defined in the constitution of the state. This opinion is in accord with that of the supreme court of Oregon in the case of Herbring v. Brown (180 Pac. 328).

In the Howell case the supreme court of Washington took the opposite position upon each of the two points which led the Maine tribunal to its final conclusion. It held, first, that the joint resolution of ratification passed by the state legislature was a legislative act within the meaning of the initiative and referendum provisions of the state constitution. Those provisions should be construed liberally to accomplish what was in the minds of the framers, namely, the possibility of referring to popular vote every act of the legislature with the exception of those specially mentioned as being withdrawn from the scope of the referendum. The act of the legislature in ratifying the Eighteenth Amendment was legislative in character and should be regarded in the same light as any other legislative act. In fact, doubt is expressed as to the competence of the legislature to ratify except by an act or bill, or by a resolution having the legal character of an act or bill, since the court finds in the state constitution no power granted to the legislature to act in matters of legislation other than by act or bill. This point assumes, of course, that the act of ratification is a matter legislative in character.

Secondly, the court finds nothing in the amending clause of the federal Constitution to stand in the way of the submission of the resolution of ratification to popular referendum. It is admitted that "if we are to stand upon the word 'Legislature,' if that word, and that alone, is the Alpha and Omega of our inquiry—it follows that the controversy

is at an end; but we are cited to no instances where a great question involving the political rights of a people has been met by such technical recourse; where any court has so exalted the letter and debased the spirit of the law." The court regards the provision in the federal Constitution relating to amendments, not as a hard and fast stipulation of the precise manner in which ratification by the states must be achieved, but rather as a "reservation in the several states of the right to express their legislative will in the manner in which they had then provided, or might thereafter provide, and, when so regarded, as a compact between the states and the federal government." The idea that the clause providing for the ratification of amendments by "legislatures" should be construed to mean "legislatures" in the narrow sense of the term, or legislative assemblies, is nullified by the fact that at the time of the adoption of the Constitution of the United States some of the states did not have legislative assemblies. Such a view, further, would deprive a state entirely of the privilege of ratification in case it should so change its constitution as to abolish its legislative assembly entirely and place the duty of performing legislative functions directly and exclusively in the hands of the people. It is more reasonable to assume that when Article V of the federal Constitution uses the word "legislature" in this connection it means the supreme legislative authority of the state whether exercised by legislative assembly, convention, or any other method which might be adopted by the people of the states. This view is held to be in conformity to the views of the framers of the federal Constitution who believed that "the theory of our political system is that the ultimate sovereignty is in the people, from whom springs all legitimate authority."

Congress—Legislative Powers Derived from Treaties—Protection of Migratory Birds. United States v. Samples (United States District Court, July 2, 1919, 258 Fed. 479); United States v. Selkirk (Same, July 14, 1919, 258 Fed. 775); United States v. Thompson (Same, June 4, 1919, 258 Fed. 257); United States v. Rockefeller (Same, August 30, 1919, 260 Fed. 346). These cases all raise the question of the constitutionality of the Migratory Bird Act of July 3, 1918. This act was passed to give effect to a treaty between England and the United States signed December 8, 1916. The act provided that it should be unlawful to hunt, kill or capture any of the migratory birds mentioned in the treaty except in the manner permitted by regulations promulgated by the secretary of agriculture. The contention in each of these cases was that Congress

was without constitutional authority to pass the act in question and in each case the court sustained the validity of the law. It was urged upon the court that the Migratory Bird Act passed by Congress in 1913 had been held unconstitutional not only by the United States district courts but by the supreme courts of two of the states. (United States v. Shauver, 214 Fed. 154; United States v. McCullagh, 221 Fed. 288; State v. Sawyer, 113 Me. 458, 94 Atl. 886; State v. McCullagh, 96 Kans. 786, 153 Pac. 557.) In those cases it was held that the protection of migratory birds was not a subject confided to the authority of Congress by any express delegation of power nor could the authority to deal with that subject be implied from any admitted congressional power. The question is squarely raised, therefore, whether or not Congress may exercise legislative power in carrying into effect the provisions of a treaty with a foreign nation when that legislative power could not be exercised otherwise in accordance with the terms of the Constitution.

In the Thompson case the court points out that Congress enjoys the authority to carry into effect by appropriate legislation the provisions of treaties with foreign countries. It reviews the authorities upon the question whether or not there are any constitutional limits upon the treaty-making power and reaches the conclusion that the treaty-making power, together with the authority of Congress to carry out the provisions of treaties, is not subject to all of the limitations which rest upon the usual legislative authority of Congress. So to limit the scope of the treaty-making power would result in preventing the United States from making treaties upon many important and necessary problems. This is true because in general the states retain legislative authority over their local affairs but do not retain any treaty-making authority in respect to those affairs. Consequently if the national government cannot make treaties in respect to these internal affairs of the states, it might frequently follow that the federal government would be powerless to protect the rights of citizens in respect to matters regarding which reciprocity of treatment would be expected by foreign powers. The court does not believe that the tenth amendment can be urged as a limitation upon the treaty-making power without nullifying that power. While the court enjoys the authority to invalidate a treaty or a law passed in pursuance of a treaty in those cases in which there is a clear violation of the Constitution, that power should not be exercised except in the clearest possible cases.

The Samples case follows a line of reasoning similar in substance to that just noted and discusses in addition the propriety of extending the treaty-making authority to the regulation of migratory birds. It holds this to be a proper subject of international agreement, and supports this fact by the citation of numerous treaties in which the United States government has dealt with the protection of seals and fish and other analogous topics. The Rockefeller case emphasizes and upholds the power of the national government through the proper agencies to make treaties relating to subjects within the scope of the reserved power of the states.

Foreign Languages—Teaching in Public Schools—Constitutionality of Statute Forbidding. Nebraska District of Evangelical Lutheran Synod v. McKelvie (Nebraska, December 26, 1919, 175 N. W. 531). A Nebraska statute of 1919 made it a misdemeanor for any person to teach in any private, denominational, parochial, or public school any subject to any person in any language except English. It allowed the teaching of foreign languages as languages only to pupils who have passed the eighth grade. The plaintiffs contended that this statute abridged various rights of liberty and property which are protected both by the state constitution and the Fourteenth Amendment. After examining the statute in the light of the probable intention of its framers, the court construed it in such a way as to destroy the force of some of the objections urged against it. The schools to which the act applies are those which present a course of study such as that prescribed for the public schools, and attendance upon which would satisfy the requirements of the compulsory school law. The law, therefore, does not prevent parents or religious societies from giving children who are attending these schools special instruction in foreign languages in addition to their prescribed school work. Nor does it make unlawful the teaching of foreign languages to adults who are not attending the public schools. In short the act aims to make sure that the child gets his elementary public school education, or the lawful equivalent of it, in English, and makes no effort to prevent his getting in addition such instruction in a foreign language as he or his parents deem desirable. Thus construed the statute violates no constitutional rights. It is a natural and logical extension of the principle incorporated in the compulsory school law. It is the right of the state to make sure that its children "may know and understand their privileges, duties, powers, and responsibilities as American citizens." To this end it is proper

and lawful to require that elementary instruction shall be given in English alone since experience during the late war clearly showed that in the absence of such a requirement whole communities existed in the state in which English was neither spoken nor understood and in which there was no clear comprehension on the part of the citizens of American institutions or ideals.

Municipal Corporations—Power of Commissioners to Increase Their Own Salaries. Kendall v. Stafford (North Carolina, November 19, 1919, 101 S. E. 15). The city of Greensboro, North Carolina, under a special act of the legislature of 1911 adopted the commission form of government. The charter of the city fixed the salaries of the commissioners at the outset. The charter also provided that "the governing body of any city may by ordinance fix the salary of the mayor of such city, or heads of departments, or other officers." In pursuance of this provision the commission voted to themselves an increase of salary of $600 per year. This action was attacked as being beyond the lawful authority of the commission. The court decided that the commissioners had no power to increase their own salaries. It pointed out that "the public policy of the state, found in the statutes and judicial decisions has been pronounced against permitting one to sit in judgment on his own cause, or to act on a matter affecting the public when he has a direct pecuniary interest, and this is a principle of the common law which has existed for hundreds of years." This policy should be strictly enforced in the interest of the public, and applied to the defendants' case it would vitiate their action. The fact that the terms of the charter seem quite clearly to authorize the action taken is disposed of by the court by saying: "The defendants come within the letter of the statute, but not within its spirit, and a consideration of the whole statute leads to the conclusion that their authority over salaries relates to those of other officers and not of their own." The view, however, that under the clause in question the commissioners acquired the authority to increase the salaries of all municipal officers except themselves seems hard to reconcile with the further argument of the court that the power to "fix" salaries is the power to "make permanent something that is unsettled" and does not include the power to increase a salary which has been established. The case is interesting as one in which the letter of the law is made to give way to the spirit of the law or to considerations of "public policy."

Municipal Corporations—Selling Public Office to Highest Bidder. City of Corpus Christi v. Mireur (Texas, Court of Civil Appeal, June 18, 1919, 214 S. W. 528). The city of Corpus Christi, under authority of a special act of the legislature of Texas, advertised for bids in the newspapers from persons or corporations who desired to hold the office of city treasurer. The provisions of the statute in question authorized this unique procedure and provided that the city council should choose the city treasurer who was in the discretion of the city council the highest and best bidder. The best bidder was declared to be the one who offered the highest rate of interest on daily balances and the bond of the highest value. He was to hold office for two years and was to receive a salary of $5 per year. Suit was brought to annul the contract which the city had entered into with a local bank. This bank had been elected treasurer of the city in spite of the fact that another bank had offered a higher rate of interest on city deposits. The court decided that the process of offering a public office to the highest bidder was repugnant to every sound principle of democratic government. It expressed its judgment upon this point in no uncertain language. "No such law," it declares, "could be sustained under our constitution which would authorize or permit the sale or farming out of an office." Furthermore, "No constitution or statute has ever contemplated that a corporation should be appointed to and exercise the powers of any office. It could not qualify as an officer or perform the functions thereof. The absurdity of a corporation being the officer of another corporation is apparent on its face." The court therefore proceeds to construe the statute under discussion in such a way as to make it provide for the appointment upon the basis of competitive bids not of the treasurer, but of a depository for public funds. By this somewhat drastic rule of construction the court avoids the necessity under which it feels it would otherwise be placed of declaring the act void. Relief was granted in this case, however, on the ground that the council had not chosen the highest bidder as a city depository.

Naturalization—Cancelation of Certificate—Meaning of "Anarchist." United States v. Stuppiello (United States District Court, September 10, 1919, 260 Fed. 483). The defendant, a native of Italy, was naturalized in 1915. In 1918 he was arrested by the bureau of immigration on a warrant charging him with being an anarchist. He admitted that he did not believe in the existing form of government in the United States, that he did believe in anarchy, and that he had held these

views for six or seven years. An action was started to cancel his certificate of naturalization on the ground that it had been fraudulently procured. The defendant resisted this action and based his defense upon the fact that while he believed in anarchy he did not believe in the overthrow of government by violence but was merely an adherent of "philosophical anarchy." The court ordered the cancelation of the defendant's certificate. The naturalization laws require an applicant for citizenship to declare that he is not an anarchist. The word "anarchist" is used without any qualification. Congress must have intended to include within its meaning "all aliens who had in mind a theory of anarchy" as well as those who frankly advocated violence. The court expresses the belief that "the philosophical anarchist who exploits and expounds his views is none the less dangerous to the welfare of the country than the anarchist who believes in overthrow—or destroying the government by force or violence." If the defendant at the time of his naturalization had expressed his disbelief in organized government he would not have been granted citizenship. Since, however, he held these views at that time it follows that his certificate of naturalization was procured by fraud and should be canceled.

Obligation of Contracts—Change in Character of Creditors' Remedy. In re Davis (Nebraska, July 16, 1919, 173 N. W. 695). A Nebraska statute of 1917 provided that any debtor who owed not less than $50 nor more than $1000 to not less than three creditors might file in a municipal or county court a petition containing his creditors' names and addresses and the respective amounts owing to each and asking the court to fix the amount of and the time when payments on these debts should be made. The creditors were to be notified of this proceeding by registered mail and were to be allowed an opportunity to be heard in respect to their rights. Davis petitioned in accordance with this act. All of his debts were incurred before the act was passed and certain of his creditors alleged that the act as applied to them impaired the obligation of contracts. The court upheld the validity of the act against this objection. In its judgment the statute did not relieve the debtor of any contractual obligation but merely altered the nature of the remedies available to the creditors. Payment in full was required for all the debts and the debtor was always subject to the order of the court. In case of the failure of the debtor to comply with the order of the court the protection from attachments or judgments which he enjoyed under the act was at once forfeited. This change in

the nature of the creditors' remedy, the court did not regard as unreasonable. The public takes an interest both in the debtor and the creditor and it is in accord with the public interest to protect the small debtor from the demands of creditors who desire to subject him to immediate payments in full or bankruptcy. The court concludes that it is more reasonable that the debtor should not be sacrificed in this way but should be given a reasonable opportunity to pay and that all creditors should recover their debts rather than that one, or at most only a few, should recover. The act therefore does not so unreasonably change the remedy available to creditors as to amount to an impairment of the obligation of contracts.

Police Power—Regulation of Out-door Advertising. In re Opinion of the Justices (Massachusetts, June 25, 1919, 124 N. E. 319). An amendment to the constitution of Massachusetts provides that "Advertising on public ways, in public places and on private property within public view may be regulated and restricted by law." The supreme court here renders its opinion at the request of the governor upon the validity of five proposed statutes drawn in pursuance of this amendment and intended to obviate the evils of obnoxious out-door advertising. The general rule is laid down that the power conferred to "regulate and restrict" is not the power "to prohibit utterly and without bound but only to establish reasonable regulations." Accordingly the bill prohibiting all advertising within three hundred feet of any public building, memorial, public park, way, or other public place would be void as a complete prohibition rather than a regulation and also because it restricts such advertising as may not be within public view, thereby exceeding the authority conferred by the amendment. A special betterment tax of twenty-five cents per square foot annually upon all signs and billboards to be used in maintaining and improving the public way near which the signs are displayed is held invalid as an attempt to levy a special betterment when "the provisions of the act do not constitute a betterment." So also a bill is unconstitutional which seeks to confer upon municipal officers unlimited discretion in granting or refusing the licenses which it is proposed to require those erecting signs and billboards to secure. Such an act amounts to prohibition rather than mere regulation. It is, however, permissible to confer upon cities the right to require such licenses under reasonable conditions, to compel the payment of a special license fee, and to revoke the license for noncompliance with the conditions thereof.

The opinion rendered regarding these various bills would seem to raise the question whether the amendment to the constitution of Massachusetts in question has actually conferred any important powers not hitherto comprised within the general police power of the state.

Taxation—Public Purpose—State Operation of Grain Elevators, Mills, and Packing Houses. Scott v. Frazier (United States District Court, June 14, 1919, 258 Fed. 669). This is a taxpayers' action attacking the constitutionality of two recent amendments to the constitution of North Dakota authorizing the state to engage in the business of operating terminal grain elevators, mills and packing houses. The plaintiff seeks to restrain the paying out of funds from the state treasury under authority of these amendments and also the issuance by the state of bonds for the same purpose. Since this action is brought in a United States district court it is necessary to establish the jurisdiction of this court to hear the case. The court here decides that there is absence of proper jurisdiction to proceed. It fails to find that the plaintiff has alleged pecuniary injury to himself amounting to the $3000 necessary to establish the jurisdiction of the court. Doubt is also expressed as to the propriety of allowing a taxpayers' action against the state itself. The court points out that to do so is a very different thing from allowing a similar action to restrain a municipal corporation from the abuse of its corporate powers.

The court then proceeds to consider the question of the actual propriety of the expenditures and bond issues which are attacked by the plaintiff. The constitutional issue raised here is whether or not the money spent under authority of the two constitutional amendments is spent for a public purpose in the sense in which that term is used in the law of taxation. If the purpose in view is private rather than public the amendments and the expenditures made thereunder will fall by reason of violation of due process of law as well as under the well-known rule in the case of Loan Association v. Topeka (20 Wall, 655). The court concludes that the taxation contemplated is for a public purpose. It recognizes the difficulty of applying hard and fast definitions to the problem of public purpose in taxation and points out that the purposes which at one time were generally regarded as private have now come to be regarded as public. The court declares in discussing this point: "No judge can investigate judicial decisions rendered during the past ten years without being impressed with the rapid extension of state activity into fields that were formerly private. The

twilight zone that separates here permissible from forbidden state action is broad. Business which will seem to one court to be public will seem to another to be private. . . . . Thus 'can' succeeds 'can't' in this field of law so rapidly that one can hardly tell the word he is looking at." The court indicates the importance to the state of North Dakota of breaking down the existing dependence of the agricultural interests of the state upon the marketing facilities of Duluth, Minneapolis and St. Paul. The purpose which will be subserved by the amendments in question and the expenditures under them will be the creation of a self-sufficiency in matters of agricultural development which will stimulate diversified farming and check the present tendency toward a system of agriculture which destroys the soil fertility. A purpose so intimately connected with the general welfare of the state cannot in the judgment of the court be held private.

Woman Suffrage by Legislative Grant—Applicability of Referendum. In re Opinion of the Justices (Maine, August 28, 1919, 107 Atl. 705). In response to a request of the governor, the supreme court of Maine gave an advance opinion upon the question whether or not the act of March 28, 1919, granting women the right to vote for presidential electors could legally be submitted to popular referendum under the initiative and referendum provisions of the state constitution. Petition calling for such referendum had been duly filed. The court decided that the presidential suffrage law was subject to referendum in the same way in which any other law passed by the legislature of the state of Maine is subject to referendum. The federal Constitution stipulates that each state shall appoint presidential electors in such manner as the legislature thereof may direct. The court declared that the "plain meaning is that each state is thereby clothed with the absolute power to appoint electors in such manner as it may see fit, without any interference or control on the part of the federal government." Any acts or resolves of the state legislature regarding the choice of presidential electors must be passed and become effective in accordance with the constitution of the state like all other acts and resolves having the force of law. While the function which the state legislature performs in ratifying an amendment to the federal Constitution is a peculiar function, not legislative in character, but an act done as the special agent of the national government, this is not true of the function of the state legislature in regulating the choice of presidential electors. In the latter case the legislature enjoys no independence of the consti-

tution of the state but is rather exercising its natural and ordinary law-making power. It follows, therefore, that the presidential suffrage act forms no exception to the acts of the legislature which are subject to referendum by the people.

Woman Suffrage by Legislative Grant—Presidential and Municipal. Vertrees v. State Board of Elections (Tennessee, July 26, 1919, 214 S. W. 737). A Tennessee statute of April 17, 1919, granted to women the right to vote for presidential electors, municipal officers and upon all questions submitted exclusively to the vote of municipalities. This case arose from a petition for an injunction to restrain the election officials of the state from putting the statute into effect. It was alleged that the act was unconstitutional, inasmuch as the state constitution fixed the qualifications for voting and limited the suffrage to male citizens. The supreme court of the state upheld the validity of the act. It called attention to the fact that the constitution of Tennessee, while providing that all male citizens shall have the right to vote, also provides that "the election of all officers, and the filling of all vacancies not otherwise directed or provided by this constitution, shall be made in such manner as the legislature shall direct." Under the authority of this clause the court holds that the legislature could legitimately confer the right to vote upon women for all offices which are not mentioned in the state constitution. It declared that wherever the constitution stipulated that an election should be participated in only by "qualified electors" that only male citizens could enjoy the privilege of voting. The officers of municipalities are not mentioned directly in the constitution of Tennessee nor is there any provision in that document respecting the qualifications of voters for presidential electors. It follows accordingly that the right to vote in these elections could be conferred by the legislature.

It is interesting to note that the court in discussing the legislative grant of presidential suffrage does not refer to the clause of the United States Constitution which provides that presidential electors shall be chosen as the legislatures of the several states shall direct. It confines its consideration of the constitutionality of this portion of the suffrage act of 1919 to questions arising under the state constitution, with the exception that, in parenthesis, as a sort of afterthought, it states that the qualifications for voting for presidential electors could "doubtless not be regulated by the state constitution."

This act was attacked upon a second ground quite different from that just mentioned. Male voters in Tennessee are required to pay a

poll tax and present the evidence of such payment before casting their ballots. The woman suffrage law, while providing that women might be required to pay the poll tax in all cases in which men were subjected to this burden, did not actually levy the tax upon women. It was urged that this was a discrimination between the sexes which should render the law invalid. The court disposes of this contention, however, by saying that the discrimination, if any exists, arises from the fact that the statute imposes the payment of the poll tax upon men rather than from the fact that the woman suffrage law fails to make a similar imposition upon women. In other words, the discrimination arises from the act which levies the discriminatory burden rather than the act which fails to impose the same burden upon an exempt class. It was further pointed out that the law itself did not specifically require separate ballot boxes for men and women. The court held that if the law had failed to provide any authority under which separate ballot boxes could be provided, it would be unconstitutional and subversive of the purity of elections; but the court finds that the state board of elections has broad enough powers to permit it to provide separate ballot boxes and holds that this is sufficient authorization to meet this difficulty. A dissenting opinion was filed in this case based upon the alleged discrimination due to the exemption of women voters from the payment of the poll tax.

Workmen's Compensation Act—Replacing Right of Direct Insurance by Compulsory State Fund. Effect on Existing Contracts of Indemnity. Thornton v. Duffy (Ohio, December 31, 1918, 124 N. E. 54). Under the Ohio Workmen's Compensation Act of 1913, employers could elect to compensate injured employees either directly or through some mutual association. The plaintiff had availed himself of this privilege of direct insurance and in pursuance of this policy had entered into a contract of indemnity with a life insurance corporation. In 1917 an act was passed requiring all employers to contribute to the state fund, out of which compensation for all industrial accidents should be paid, and revoking all authorization previously granted for the establishment of private systems of compensation. It is held in this case that it is within the constitutional power of the legislature of Ohio to make the payments to the state fund compulsory, that such a law is an exercise of police power by the state, and that therefore the obligation of the plaintiff's contract of indemnity with an insurance corporation was not impaired thereby.

FOREIGN GOVERNMENTS AND POLITICS

EDITED BY FREDERIC A. OGG

University of Wisconsin

Soviet Government in Russia. The Russian Socialist Federal Soviet Republic was proclaimed by the Third All-Russian Congress of Soviets in November, 1917, shortly after the Bolshevist party had overthrown the Kerensky government by the force of arms. Eight months later, the Fifth All-Russian Congress adopted a constitution. Since it was the party of Lenin and Trotzky that had invented the slogan "all power to the soviets" and changed Russia from a prospective democracy to a soviet republic, American public opinion came to identify the soviet form of political organization with bolshevism and all the policies it stands for, including the dictatorship of the proletariat, and nationalization all along the line of economic life. However, most observers who have since come out of Russia agree on drawing a distinction between sovietism and Bolshevism. Jerome Davis says: "It must always be remembered that the Bolshevists are merely one party, but that the soviets are a form of government." For instance, the Fourth Extraordinary Congress of the Council of the Workmen's, Peasants', and Cossacks' deputies, the congress which met in March, 1919, and performed the dismal task of ratifying the Brest-Litovsk treaty, was composed of 1084 delegates, who were divided among no less than nine parties, the bolshevists possessing a safe majority. It would therefore seem legitimate to discuss the novel form of political organization exhibited in the soviet system on its own merits, disregarding as far as may be the peculiar uses to which the Bolshevist party has put the instrumentalities furnished by the new constitution.

The Soviet Republic is a hierarchy of soviets from the village soviet and the city soviet at the bottom to the All-Russian Congress of Soviets at the top. The smallest unit of organization of the peasant population is the village commune, which elects at a meeting of all working inhabitants, a village soviet. All village soviets in the same township (*volost*) elect a township or *volost* soviet. All the *volost* soviets in a particular county or *uyezd* choose delegates to a county or *uyezd* soviet

at the rate of one delegate for every 1000 inhabitants. The next highest body is the provincial soviet, which serves as the point of juncture of the representatives of the rural and urban populations. The rural delegates are sent either by the county soviets or else directly by the township soviets, at the rate of one delegate for each 10,000 inhabitants. The urban delegates are sent by the city soviets at the rate of one delegate for each 2000 voters. In addition to being represented in the provincial soviet, each city soviet is also given direct representation in the All-Russian Congress of Soviets, at the rate of one delegate for each 25,000 voters. The remaining members of the All-Russian Congress of Soviets are sent by the provincial soviets at the rate of one delegate for each 125,000 inhabitants. The All-Russian Congress, which is the highest authority in Russia, meets at least twice a year and elects from all parties on the basis of proportional representation, a central executive committee of 200. The latter is permanently in session, and is the highest authority between sessions of the All-Russian Congress. It elects the Council of People's Commissars or responsible ministers.

It is obvious that in the Soviet Republic the industrial workers are a privileged class. Of course it would be unwarranted to draw from the foregoing the conclusion that they are overrepresented exactly in the ratio of five to one, since the constitution speaks in terms of population when it deals with the rural population and in terms of voters when referring to the urban population. Yet assuming that two-fifths of the population (including women) vote, 2000 male and female urban voters who send one delegate to the provincial soviet would represent a population of only 5000; whereas of rural inhabitants, it takes 10,000 to send a delegate. Moreover, the political weight of the urban population is further enhanced by their double representation in the All-Russian Congress of Soviets: directly by the delegates from the urban soviets, and indirectly through the delegates of the provincial soviets.

Doubtless the feature of the soviet system of the greatest interest to us is the recognition given to the principle of representation by occupation rather than by geographic unit in all but the highest levels of the soviet pyramid. To get an idea of the typical urban soviet let us assume that in an American town all workingmen and professional men are organized either by trade or by workshop; further, that each trade or workshop sends one or more representatives in proportion to membership to a labor council; and finally, that this labor council is

the governing body of the town. We at once perceive that a body so constituted differs from our municipal council in two important particulars. First, the suffrage is restricted to mere "producers," since those who derive a livelihood from the ownership of property are automatically excluded; and second, that the "aldermen" come from occupational groups rather than from residential groups such as our town wards.

The rural soviets are similary constituted, although the adherence to the occupational principle is partly obscured by the occupational homogeneity of the rural population. The village, the *volost*, and *uyezd* soviets are peasant organizations. Even the provincial soviet, which, as said above, is the juncture point of the rural and urban representations, tries to preserve as far as possible the same group lines. To this end it is organized by sections: peasants, workers, soldiers, and Cossacks (in the regions inhabited by the latter). Naturally, only the first two are of general importance. Each section elects from its membership five officers who direct the business of the section. The officers of all sections jointly elect the officers of the provincial soviet. The latter, together with an executive committee which is elected by the general assembly, constitute the executive arm of the provincial soviet. Higher up than the provincial soviet the geographic principle comes fully into its own: the All-Russian Congress of Soviets is a body no less geographical than the Congress of the United States.

It is not strange that revolutionary Russia should show an aversion for the western forms of democracy. Half a century ago, when Russian social thought was first formed, we find that trend already dominating. On the one hand, the conservative Slavophils congratulated themselves that the Russian people were not a "political" people like the nations of the "rotten West." On the other hand, the revolutionaries of that time were equally afraid of the forms of political democracy, and demanded the convocation of an assembly of representatives of the peasant communes to give to the people "Land and Freedom." They were loath to take chances with a constitutional convention or a parliament elected on a mixed social basis after the manner of Western Europe, for fear that the propertied classes might turn the whole matter to their own account.

The revolutionary thinkers of subsequent generations succeeded in overcoming this dread of political democracy. Indeed, they even went so far as to place reform of government on parliamentary lines at the head of their demands, while at the same time extending an invita-

tion to the bourgeoisie to join in the struggle against Tsarism. However, after the unsuccessful revolution of 1905–06, the anti-democratic sentiment revived. This was partly because no good was any longer anticipated from a participation in government by a bourgeoisie which had shown itself during those fateful years only too ready to compromise with autocracy; and partly because the radical thinkers of Western Europe—the syndicalists, gild socialists, and others—had likewise become disillusioned with democracy. Many such radicals who before considered democracy as the very breath of their nostrils, now see in it an instrument which readily lends itself to plutocratic designs, and which, moreover, the popular masses can never expect to use with advantage.

These critics center their attention on the mode of representation in government current in a democracy. They question whether in our differentiated modern society a truly representative government may be reared on a basis of an economically amorphous mass of voters who are united by no other bond than residence in the same geographic locality, but are separated by the fundamental differences which flow from difference in occupation. They further maintain that our "mixed" democracy can benefit only those who are adept at "fishing in muddy water"—the professional politician and the capitalist. The remedy which they propose is that governing bodies should represent not an amorphous body of constituents residing in a particular area, but groups united by real interests—economic or occupational groups. The Soviet constitution, as we saw, is reared on the same principle. So much for the intellectual roots of sovietism.

The broad masses of the Russian people had still a better ground for doubting the western forms of democracy. For several centuries the peasants had practiced a form of self-government in their land communes which lived up to the specifications of the radical thinkers of today. No one but peasants had a right to take part in the government of the commune—neither the landlord nor the merchant nor the professional man who lived in the neighborhood. The commune constituted the peasant's little world, and in this little world the only sort of grouping for the purpose of government which he knew was of course the one where all people in the same social and economic station governed themselves without the admixture of outsiders.

When, during the revolution of 1905–06, the workingmen of Petrograd and Moscow and other cities organized into soviets for the purpose of fighting the autocracy, the system of representation which

they chose was the natural one of trade and shop representation. The Putilov works sent so many delegates, the Obukhov works so many, and so forth. The soviets which came into existence after the revolution in March, 1917, were built on the same model, excepting that delegates from the soldiers were added.

At first the workingmen looked upon the soviets as mere watchdogs for the revolution over the provisional government, although, even then, the soviets were the only recognized authority in the country. The ministers of the provisional government held the offices and issued the orders; but the soviets decided whether or not those orders should be carried out. Still, for six months after the revolution, the powerful soviets were content to wait until the constitutional convention met to decide what should be the form of government in Russia. That convention was, according to plan, to be chosen on the basis of the widest franchise, but by geographic districts like similar bodies in the democracies of the West. However, under the constant prodding by the anti-democratic Bolshevist leaders, whose propaganda was favored by the flow of events, the Petrograd and Moscow soviets and later the All-Russian Congress of Soviets turned their backs upon the democratic ideal for Russia and voiced the slogan "All power to the Soviets." In January, 1918, when the long deferred constitutional convention at last met, it was forcibly dissolved by the new soviet régime. Sovietism and bolshevism have triumphed together; and on the whole, the masses of the Russian people, who had never developed a feeling for democracy in our sense of the word, seem to be in a fair way, as far as our scant information goes, to become adjusted to the soviet form. The political slate was clean. On it the Bolsheviki have quickly written the word "soviet." And "soviet" it stays for the present.

We have consciously tried to confine this paper to a bare exposition of facts and trends. We have not touched at all on the economic program which the Bolshevist party is carrying out through the agency of the soviets. No one who cares anything for whatever scientific reputation he may possess will venture at this distance and at this time to say what actually is the working of Russia's political experiment. The following observations may, however, not be unwarranted.

The soviet system seems to offer excellent opportunities for the party in power to maintain itself permanently in power. The representatives to the soviets are not elected for a term but are subject to recall by their constituents at any time. That has an air of a perfect popular

control, yet it would seem that the very fact that elections to the various soviets do not take place simultaneously all over the country, but haphazard, ought to enable the party in power to concentrate its whole influence on those localities where elections are held and defeat the opposition in detail. Under a system of general elections at a fixed date a government would enjoy no such advantage over the opposition. This may be one cause of the success of the Bolshevist party in remaining in power.

Representation under the soviet system is far less direct than with us. The American citizen sets up three out of the four pillars of the national government, namely representative, senator and President. Only the Supreme Court is beyond his reach. In Russia peasant citizens select a village soviet, which selects representatives for the *volost* soviet, which elects representatives for the provincial soviet, which selects representatives for the All-Russian Congress, which selects representatives on the central executive committee. Theoretically this repeated distillation ought to bring to the fore men of force and brains. It is hard to see how the popular spell-binder, hand-shaker, back-slapper or baby-kisser would get to Moscow as frequently as he gets to Washington. On the other hand, the four extra stages intercalated between the voter and the national representative give a good opportunity for the commissars of the government of the time being to apply influence or pressure to deflect these bodies farther and farther away from the people's will. It is obvious that unless the principle of proportional representation is strictly adhered to at every stage, the minority strains must disappear from the skein and the central executive committee would be composed entirely of the majority party.

Theoretically the soviet system need not exclude deputies of the bourgeoisie. Nevertheless it is not easy to fit them into such a system, even though there be no thought of dictatorship of the proletariat. Would they be a single group or a sub-group as financiers, manufacturers, contractors, merchants and investors? Or would they have a group according to their investment interest, e.g., the Missouri Pacific, the U. S. Steel, traction, water power, etc.? They might be represented according to their activity, but it is likely that more and more their representation would be according to their properties or forms of property.

If we find it next to impossible to fit the bourgeoisie into the soviet system, the soviet constitution itself has shown a way for utilizing in legislative counsel state-building talent outside of the recognized

occupational groups of laborers, peasants and soldiers. As noted above, each provincial soviet is grouped in two or more occupational sections. Each section is authorized to add to itself in an advisory capacity up to one-fifth of its membership from among "experienced and necessary workers." A way is thus opened for the "expert" to influence government at the source. Of course, in addition, he can make his influence felt as an official and employee of the soviet government. Whether the atmosphere of domination by the manual laborer, which is inevitable under the soviet régime, is conducive to bringing the best existing talent into the service of society and to stimulating it to the greatest exertion, is quite another matter.

E. A. Ross and Selig Perlman.

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Proportional Representation in Ireland. In January, 1919, a successful trial of proportional representation was made in the municipal elections of Sligo, and in the following July a local government (Ireland) act extended the system to all Irish municipal elections. The form employed is the Hare plan, the "single transferable vote," as it is usually called in the United Kingdom. On January 15, 1920, the first general trial of the new scheme was made, when elections were carried out in 127 Irish municipalities. The testimony of all elements is that the system worked very satisfactorily. The *Irish Times* (Unionist) says that proportional representation has "come to stay," and expresses the conviction that the early future will see the adoption of the system for municipal and parliamentary elections throughout the United Kingdom. The Belfast *Irish News* (Nationalist) says: "Proportional representation has been justified everywhere. We shall not quarrel with the verdict in any city or town, however we may regret some of these verdicts. In a self-governed Ireland we would have all popular contests decided on the same principle, and we cannot praise the new voting system any higher when that avowal has been made." The *Evening Telegraph*, representing the suppressed *Freeman's Journal* (Sinn Fein), says in similar vein: "The result of the elections has not only justified supporters of proportional representation, but has converted to their view the great mass of the electorate. The system did not prove impracticable when tried for the first time on the national scale, nor did it tax too severely the intellectual energies of the voters or the officials."

Errors and delays were few, and in the city of Dublin especially, where there were 150 candidates for 80 seats, the town clerk and his staff did their work with noteworthy expeditiousness and accuracy. Although no special steps were taken to instruct the voters, and notwithstanding the heavy proportion of newly enfranchised women in the electorate, few difficulties or uncertainties arose at the polls. Sinn Fein came off with the largest number of victories. Yet its triumph was not so great as had been expected, and the new form of election brought to light in an interesting and useful way the intermixture of political faiths in all portions of the island. Minorities obtained representation, including Unionists in the south, Sinn Feiners in Ulster, and also Nationalist, Labor and Municipal Reform candidates.[1]

[1] See *The Spectator*, January 24 and February 7, 1920.

NEWS AND NOTES

Personal and Miscellaneous

EDITED BY FREDERIC A. OGG

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By vote of the executive council, the next annual meeting of the American Political Science Association will be held at Washington during the last week of December. The president of the association has appointed a committee on program as follows: A. N. Holcombe, of Harvard University, chairman; S. K. Hornbeck, of the United States Tariff Commission; and J. S. Young, of the University of Minnesota.

A standing committee on instruction in political science was authorized by the executive council in December, 1916. Wartime conditions caused the project to be held in abeyance; but, acting under authority conferred by the executive council in November, 1919, the president of the association has now appointed the committee, as follows: for the term 1920-21, C. A. Beard, of the New York Bureau of Municipal Research, and Isidor Loeb, of the University of Missouri; for the term 1920-22, W. B. Munro, of Harvard University, chairman, and J. L. Barnard, of the Philadelphia School of Pedagogy; for the term 1920-23, Edgar Dawson, of Hunter College, and S. P. Orth, of Cornell University.

A joint executive committee is being organized by the Sulgrave Institution and associated societies for the purpose of arranging a program for the celebration during the coming year of the three hundredth anniversary of the beginnings of free institutions in America. President Reinsch has named John G. Agar, of New York City, and George B. McClellan, of Hoboken, to represent the American Political Science Association on this committee.

Acting under authority conferred by the American Political Science Association at Cleveland last December, the executive council has voted to ratify, in the name of the association, the constitution of the American Council of Learned Societies devoted to Humanistic Studies. The president of the association has named Professor Henry Jones Ford and Professor J. P. Chamberlain as the society's first representa-

tives in the American Council. An account of the council's first meeting and of the organization's purposes and plans will appear in the August issue of this REVIEW.

Professor W. W. Willoughby, of the Johns Hopkins University, will soon publish through the Johns Hopkins Press a volume entitled *Foreign Rights and Interests in China*. Professor Willoughby expects to sail early in June for the Far East, and will spend most of the summer in the Philippines and Dutch East Indies. He will return to the United States in the fall to resume his academic work at the Johns Hopkins University.

Dr. Paul S. Reinsch, former American minister to China, and president of the American Political Science Association, delivered a course of lectures on the Schouler Foundation at the Johns Hopkins University in April on the development of nationalism and representative government in China.

Professor Willard Barbour, of the Yale Law School, one of the few men in the English-speaking world whose work gave evidence of mature and creative scholarship in the field of legal history, died in New Haven, Connecticut, on March 2, 1920. His best known publication is *The History of Contract in Early English Equity*. He had, in February, begun his lectures on legal history at Columbia University on the Carpentier Foundation. In his death, legal scholarship has suffered a heavy loss.

Dorsey W. Hyde, Jr., has resigned as librarian of the New York Municipal Reference Library to accept a position as chief of a motor truck research bureau at Detroit, Mich., for the collection and classification of data pertaining to transportation problems and their solution. Mr. Hyde will be succeeded at the Municipal Reference Library by Miss Rebecca B. Rankin who has served as assistant librarian during the past year. Miss Rankin is a graduate of the University of Michigan and of Simmons College, and has served as librarian of the Washington State Normal School and as assistant to the director of the New York Public Library.

Professor James Q. Dealey, of Brown University, has recently published a series of twenty articles in the Providence *Journal* making con-

structive suggestions for improvement in state government. He is also lecturing on American political policy at the Naval War College at Newport, R. I.

Professor Harold S. Bucklin, of Brown University, is chairman of a committee on Americanization recently appointed by the governor of Rhode Island.

Mr. L. D. White, of Dartmouth College, has been appointed assistant professor of political science at the University of Chicago.

Dr. Graham H. Stuart has been appointed instructor in political science at the University of Wisconsin. Dr. Stuart studied at the École Libre in Paris and recently completed his work for the doctor's degree at Wisconsin.

Mr. Allen F. Saunders, assistant in political science at the University of Wisconsin in 1919-20, has been appointed to an instructorship at the University of Pennsylvania.

Dr. A. N. Holcombe has been advanced to a full professorship of government at Harvard University.

Professor C. D. Allin, of the University of Minnesota, is spending the spring and summer months in England. During this period a portion of his work at Minnesota is in charge of Professor Harold S. Quigley, of Hamline University. Dr. Quigley has been appointed to an assistant professorship at Minnesota, from next September.

Dr. H. W. Dodds, of Western Reserve University, and formerly of the University of Pennsylvania, has been appointed secretary of the National Municipal League. The other officers of the league are: president, Charles E. Hughes; treasurer, Frank A. Vanderlip; assistant secretary, Russell Ramsay. Mr. Clinton R. Woodruff, who recently resigned the secretaryship after a long period of service, has been made honorary secretary.

Dr. E. C. Maxey has been appointed acting head of the department of political science at Western Reserve University.

Mr. Stephen J. Patten, secretary of the Yonkers Bureau of Municipal Research, died suddenly on February 20. Mr. Patten was an alumnus of Brown University and was for one year a graduate student at the University of Wisconsin. At the time of his death he had completed the residence requirements for the doctorate in political science at Columbia University and had almost finished a valuable dissertation on nonpartisan elections in American municipalities. It is hoped that the thesis may be posthumously published.

Miss Edith Rockwood, formerly of the Minneapolis Bureau of Municipal Research, is now civic director of the Woman's City Club of Chicago.

Col. James Riley Weaver, emeritus professor of political science at DePauw University, died at his home in Greencastle, Indiana, on January 28.

Dr. Stanley K. Hornbeck, formerly of the University of Wisconsin, is working with the United States Tariff Commission at Washington.

Mr. Harry W. Marsh was recently elected to the secretaryship of the National Civil Service Reform League, succeeding George T. Meyes, who has entered private business. Mr. Sedley H. Phinney succeeds Mr. Marsh in the assistant secretaryship. He was formerly with the Philadelphia Bureau of Municipal Research, the New York State Reconstruction Commission, and the New York Bureau of Municipal Research.

The thirty-ninth annual meeting of the National Civil Service Reform League was held February 26 at Springfield, Mass. Among the topics discussed were employees' councils in the federal service, centralization in the United States Civil Service Commission of employment authority over the federal service, the reorganization of the diplomatic and consular service of the United States, and opposition to the demand for veteran preference in the civil service.

A special committee appointed last June by the Canadian senate has submitted its *Report on the Machinery of Government* (Ottawa, 1919, pp. 39). The report urges the establishment of some agency which can "collect, collate, and keep available for inquirers informa-

tion now dispersed and only to be found by prolonged search." That portion of the report of the British machinery of government committee which places "research and information" among the ten main functions of government recommended for adoption in the United Kingdom is printed as an appendix.

It is reported from Columbus that the Ohio legislative committee on reorganization of the state government will recommend, among other things, the consolidation of the forty-nine boards, bureaus, commissions and departments of state government into seventeen, and the extension of the term of the governor from two years to four.

Mrs. Thomas J. Preston, Jr., formerly Mrs. Grover Cleveland, has entrusted to Professor Robert M. McElroy, of Princeton University, the preparation of an authorized life and letters of President Cleveland. All of Mr. Cleveland's papers, personal as well as public, including the collection in the Library of Congress, the letters to Commodore Benedict, Mrs. Preston's own collection, and a large assortment of letters from personal friends and political associates, have been placed in Professor McElroy's hands. He wishes it announced, however, that he will especially welcome copies of letters that can be supplied by persons who had correspondence with Mr. Cleveland. It appears that the former president wrote most of his letters in longhand and kept no copies. The biography will be published by Harper and Brothers, and portions of it will first appear serially in *Harper's Magazine*.

Among subjects which the New York Bureau of Municipal Research has under investigation are: purchasing methods and systems of states; local government consolidation of metropolitan areas; New York City charter revision; school budgets in American cities; tax limits of cities; public health administration; history of the Massachusetts budget; budget making and financial administration of states; accounting, reporting, and auditing; and financing of governmental needs and projects.

The Ohio Institute for Government Efficiency has published a pamphlet outlining a budget system for the state.

A Southwestern Political Science Association has been established, with headquarters at the University of Texas, with a view to "cultivating and promoting political science, and its application to the solution of governmental and social problems, with particular reference to the Southwestern states." Temporary officers chosen at a preliminary meeting are Professor H. G. James, president, and Professor C. P. Patterson, secretary-treasurer. Provision is made for an editor of publications, and it is planned to issue by early summer the first number of a *Southwestern Political Science Quarterly*. A general meeting, with Professor Albert Bushnell Hart, of Harvard University, as principal speaker, was held at the University of Texas in April. By the terms of the constitution, all annual meetings are to be held at Austin. Public response to the announcement of the project has been gratifying. Annual dues for active members are one dollar a year; for sustaining members, five dollars; for contributing members, ten dollars; for life members, one hundred dollars.

BOOK REVIEWS

EDITED BY W. B. MUNRO

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History of Labour in the United States. By JOHN R. COMMONS, DAVID J. SAPOSS, HELEN L. SUMNER, EDWARD B. MITTELMAN, HENRY E. HOAGLAND, JOHN B. ANDREWS, SELIG PERLMAN. (New York: The Macmillan Company. Two volumes. Pp. 623, 587.)

The labor problem in the United States is one upon which it has been much easier to feel strongly than to think clearly. It is a problem upon which the partisan and the propagandist has had much to say, the scholar relatively little. The citizen or the student who has desired to approach it scientifically and dispassionately has found it no easy task to secure the facts upon which to base an intelligent judgment. Detailed studies upon special topics have not been lacking and will, it is to be hoped, continue to appear, but comprehensive and accurate data regarding the labor movement as a whole has been conspicuously absent. By supplying this great need Professor Commons and his associates have placed under a heavy obligation to themselves not only every thoughtful student of the social sciences but every other thoughtful person who wishes to have facts to serve as a background upon which to form opinions on the critical issues arising out of the present day relations of labor to capital.

The opening sentence of the first chapter accurately explains the purpose and scope of the work. It is there stated that these volumes "deal mainly with the history of labour conditions, of labour philosophies and of labour movements—not primarily with the structure or policies of labour unions, nor with the history of individual unions, nor with the legislative results of movements, nor with current problems. Their field is rather the background which explains structure, policies, results and problems." In accordance with this plan the authors have not dealt with such topics as child labor, the protection of women in industry, factory laws, the constitutionality of labor

legislation, nor any of the other questions relating to the formulation of governmental policies in respect to labor; they have dealt with the emergence of labor as a class conscious group in this country and with the efforts of that group to make itself coherent and effective for the purpose of promoting its own class interests.

These volumes are the product of coöperative scholarship. Six scholars, working together, have covered the entire field of the study, each assuming primary responsibility for a particular part thereof, but each working in coöperation with his associates as well as under the supervising direction of Professor Commons who writes the introductory chapter. This method made possible a comprehensive, unified, and painstaking study in a field of research so broad in scope as to have been in all probability beyond the capacity of a single scholar.

Professor Commons' introduction of seventeen pages gives the reader in broad lines a penetrating survey of the conditions which have influenced the labor movement, the fluctuating philosophies which have dominated it, and the features which have characterized it in the chief stages of its development. It affords the perspective and background from which to approach the closely detailed historical studies which follow.

The first section of the book, written by Mr. Saposs, is entitled "Colonial and Federal Beginnings." It occupies 140 pages and carries the history of labor to the year 1827. It is only in the latter part of this period, however, that labor begins to emerge as a distinct group in industrial society and to exhibit a semblance of class consciousness. With the development of the merchant capitalist competing vigorously in markets which had become national came heavy pressure upon the wage earner, in the form of wage reductions and the introduction of sweatshop methods of production. Here was the origin of the modern struggle between labor and capital and here also was the beginning of the efforts of the American workingman to organize for the protection of his economic interests. These early trade unions sought to maintain the standard of life of the wage earner by securing for him a minimum wage, reasonable hours, and adequate apprenticeship rules. Their methods were the strike, aided by the payment of strike benefits, coupled with insistence upon the principle of the closed shop. It was in this early period also that there occurs the first demonstration of the blighting effects of economic depression upon the life and efforts of labor organizations.

Miss Sumner deals with the period from 1827-33 under the caption, "Citizenship." This contains 163 pages, devoted to the history of the first plunge of the American workingman into politics. If the development of class consciousness during the late twenties made the wage earner aware of the legal and economic disadvantages under which he labored, the newly acquired franchise placed in his hands a means of reform. Workingmen's parties sprang up in most of the more populous centers, and those in Philadelphia and New York seemed for the moment to threaten the integrity of the older political parties. The demands of the wage earner were much the same everywhere. He demanded a ten hour day, so that he might have adequate leisure to enable him to assume intelligently the responsibilities of citizenship. He demanded free and adequate schools for his children, so that they might not fall prey to the political demagogue. He demanded mechanics' lien legislation, the reform of the compulsory militia service system, the abolition of imprisonment for debt, the simplification and publication of the laws, and the abatement of the evils of wild-cat banking. Some of these demands he succeeded in securing while the agitation for certain others did not bear fruit till later. The workingmen's parties themselves, however, did not survive, and the student of politics will examine with interest the causes of their failure. The change from industrial depression to prosperity turned the eyes of the wage earner once more to the allurements of collective bargaining. The parties were rent by dissensions, due partly to the conflicting aims and ideals of their own members and partly to the malicious encouragement of the professional politician from the outside. They suffered from their inexperience and lack of discretion in the selection of candidates, and finally they found the strength of their appeal to the voter diminished by the fact that the older parties proceeded to appropriate and support some of the more important and popular planks in their platforms.

The third epoch in the history of the labor movement extends from 1833-39 and is covered by Mr. Mittelman. This section is called "Trade Unionism" and comprises 135 pages. This period marks the transition from the old trade societies which had stressed mainly various benefit features to trade unions organized and equipped to engage actively in collective bargaining. They began as local or shop unions, but soon expanded into city central unions. They kept rigidly out of politics and confined their demands in the main to wages and hours. They undertook to prevent hasty and ill-advised strikes,

but supported financially the strikes which were sanctioned. The trade union movement during this period culminated in the formation of national trades unions the functions of which never passed beyond the stage of propaganda and advice. At least five national unions sprang up in individual trades, but this encouraging progress came abruptly and disastrously to an end with the economic and financial catastrophe of 1837.

Mr. Hoagland treats the period from 1840-60 under the title "Humanitarianism," and devotes 136 pages to the task. The panic of 1837 and the years of depression which followed destroyed the labor organizations and rendered hopeless any attempts in the direction of collective bargaining. It was easy, therefore, to lure the wage earner into schemes of speculative reform and to arouse his interest in various panaceas. The early part of this period is accordingly marked by experiments in association and coöperation. Plans of land reform were projected by agrarian reformers, and the movement for a shorter work day was pushed as a means of "making work." These humanitarian projects never succeeded in enlisting the whole-hearted support of labor, and the ventures in coöperation failed because of lack of capital and business ability as well as hostile competition from the outside. In the early fifties the skilled trades began to organize and to make attempts at collective bargaining. But the unions thus formed shortly suffered disintegration as a result of the severe economic depression. This disintegration, however, was not so complete as formerly and the nucleus for future resuscitation and development remained.

The period of "Nationalization" extended from 1860-77. Mr. Andrews is the author of this section, which is 188 pages in length. With the return of business prosperity during the Civil War trade unions began to revive. The nationalization of markets through effective means of transportation made necessary national trade unions, which brought in their wake the national organizations of employers, violent and disastrous strikes and a strengthening of the laws against conspiracy and intimidation. The trade unionism of the period was, however, weak. It aimed merely at the loose federation of autonomous unions; it lacked a national benefit system; the low dues required from members prevented the accumulation of strike funds; and finally the leaders who were capable of guiding it wisely were unable to resist the temptation to go into politics. During this period also occurs the first national labor party in the form of the National Labor Union. Working for two primary ends, the eight hour day and greenbackism,

it followed the policy of pledging the candidates of the older parties to these principles rather than putting its own candidates in the field. With the abatement of public interest in the greenback issue trade union action came once more to supplant political action in the minds of labor leaders and the National Labor Union disintegrated.

By far the longest section of the book is that covering the period since 1876, to which Mr. Perlman has given the title "Upheaval and Reorganization." To this study 342 pages are devoted. Here is to be found an accurate analysis of the beginnings of American socialism and the influence of that movement upon the principles and progress of American labor. Here also is traced the development of the rivalry which at last became so bitter between the Knights of Labor, seeking both through strikes and through political activity to further the interests of the unorganized and unskilled worker, and the American Federation of Labor, a cohesive organization of the skilled trades, relying almost exclusively upon collective bargaining and concerning itself with politics only when necessary to protect itself from legislative infringement of its freedom of economic action.

The success of the American Federation and the disintegration of the Knights afford the key to the present alignment of groups in the laboring class. The unskilled workman remains largely unorganized and is inclined to turn a sympathetic ear to the arguments and programs of the socialist, the syndicalist, the anarchist and the Industrial Workers of the World. The federated trade unions comprising in the main the skilled workers have achieved a distinct consciousness of their own interests and power; they are unwilling to weaken an organization which has so far weathered the storms of economic strife by admitting the unskilled worker, and they are also unwilling to deviate from the use of collective bargaining which has proved their most effective weapon. They refuse to ally themselves with any political party or to exert vigorous efforts to secure labor legislation. While not assuming the rôle of prophet Mr. Perlman makes this very pertinent observation: "So long as the majority of the American trade unions refuse to make labor legislation a corner stone in their program, so long as their chief concern with politics remains merely to protect their economic freedom of action, just so long will they lack an adequate incentive for forming an independent labor party." Although general tendencies since 1896 are noted in a concluding chapter of sixteen pages, the detailed treatment of the labor movement ends with that year.

So successful have the authors been in the execution of their coöperative endeavor that the reader is hardly conscious of a change in point of view or method of treatment in passing from one section to another. Elaborate documentation citing original source material gives evidence of a most scrupulous regard for historical accuracy, a virtue which is still further attested by the entire absence of anything savoring of a propagandist viewpoint, or a desire on the part of the authors to defend any particular thesis.

It can hardly be said that the book makes easy reading. The style throughout is compact to the point of dullness, which is, no doubt, the price which the authors pay for writing two volumes instead of four. The reader will find himself frequently floundering somewhat helplessly in a sea of detail, out of which he is able to emerge only with difficulty by the aid of the elaborate analytical table of contents which proves to be more descriptive than analytical. The average reader would doubtless be grateful for a summarizing paragraph at the end of each chapter with perhaps a slightly longer summary to conclude each section. The volumes are provided with a satisfactory index and an exceedingly valuable classified bibliography of nearly fifty pages.

ROBERT E. CUSHMAN.

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Origin of Government. By HUGH TAYLOR. (Oxford: Blackwell. 1919. Pp. viii, 259.)

Die Moderne Staats-Idee. (Deutsche, zweite vermehrte Ausgabe.) By DR. H. KRABBE. (The Hague: Martinius Nijhoff. 1919. Pp. xi, 311.)

Dr. Taylor's little book embodies a bold attempt to formulate a new and self-sustaining theory, not only of the origin, but also of the evolution of government. In a field of supreme human interest in which from Plato's day to our own research and speculation have ever continuously been engaged in constructive effort, the author brusquely sweeps away all previous explanations as worthless and rears his edifice *ab initio* on the foundations of the Darwinian law of natural selection. "All theory with regard to the origin of government, of society, or of civilization must, as a matter of fact, start completely afresh with Darwin and the struggle for existence."

Assuming a primordial condition of *bellum omnium contra omnes*, in which the struggle for survival among individuals follows the laws

which govern other animal organisms, he builds the incipient social group about the person of some strong and dominating individual. This struggle for, and achievement of, supremacy is a purely biological phenomenon. It is here that government originates. Once established and the social group created, the government itself becomes a new and determining factor in the process of evolution. The struggle for survival is now broadened to a contest between social groups, in which, however, the same forces operate. That group tends to survive which is most thoroughly consolidated and subordinated to the will of its ruler. This implies a cessation of the fierce conflict between the individual members of the group, and permits the development of morality and the social virtues, which were repressed under the régime of individual competition. Only under the strong rule of absolute monarchy can the state develop and the foundations of civilization be laid.

After a certain degree of social stability has been attained it frequently happens that the state's continued existence, in the conflict between social groups, is menaced by a weak and incompetent ruler. Nature supplies a corrective to this danger in the usurpation of power by strong and capable men. It is this principle which the author describes as "reorigination of government." Improvements in government, and its recognition of the necessity of furthering the general welfare are the consequence of an increasing demand for liberty, which springs from an "atavistic longing for the delights of the untrammeled individual existence." The establishment of a stable political control, the recognition of the fixity of government, is an eventual stage in evolution, accomplished largely through the agency of religion which attributes a sacrosanct character to the person of the king. With the monarch thus elevated to a position above the reach of ambitious would-be usurpers, the struggle for supremacy takes the form of competition for ministerial office. The king becomes a gilded figurehead and real power is the prize of the intellectually strongest statesmen.

There is always a fascination in a simple and logical explanation of political origins and evolution. It was these qualities which, for example, gave Rousseau's *Contrat Social* its great vogue. Such general explanations have, however, hitherto always shipwrecked on the extreme complexity and diversity of the facts of history and anthropology. While highly suggestive, it is doubtful if the work under review will in any respect constitute a new point of departure for students of political theory. The fundamental premises of a pre-

social state of universal warfare, that government originates in a struggle for supremacy, and that it takes the initial form of absolute monarchy in every instance are themselves most highly questionable. The implication that there is and can be no law between states save that of nature "red in tooth and claw" is scarcely likely to gain general credence in an age which is witnessing so many manifestations of the spirit of internationalism.

The sovereignty of the state is being attacked from many quarters, and through various instrumentalities. From within it is being undermined by such movements as guild socialism; from without it is being openly menaced by the waxing strength of internationalism. Keeping pace with, if not in some instances anticipating the expression of these political and social tendencies, and lending substantial support to them, is the increasing volume of theoretical literature which is devoted to a criticism of the current doctrines of state sovereignty and to a constructive attempt at a more adequate interpretation of political phenomena.

From this point of view, the work cited above by Dr. Krabbe, who is professor of public law in the University of Leyden, is a very significant *livre de circonstance*. The central thesis is the untenability of the doctrine of the sovereignty of the state and the necessity for the substitution therefor of the principle of the sovereignty of law. The notion of state sovereignty is a heritage of the régime of absolute monarchy and, in the view of the author, is utterly incompatible with the real character of the modern state, which, so far from embodying a supreme power which is the source of all law, is recognized as being subject to the law on every hand. Indeed, it is a common legal consciousness within a social group which constitutes a state, and without which there can be no state.

Moreover the sole essential function of the state is to formulate the norms of law which spring from this legal consciousness. The concept of the state as a unity of public interests, the care of which is one of its essential functions to be performed through military, police and administrative agencies, is again the product of the absolutistic régime. The idea of public interests itself is a fiction. Within the state there is a great complexity of interests, which are in no real sense divisible into public and private categories. It is the business of the state to evaluate these interests and to determine norms of law and rights on the basis of the general legal consciousness, but not to pro-

mote or foster interests. Administrative agencies established on the basis of law for the furtherance of interests are not, therefore, organs of the state. This view also implies a denial of the distinction between public and private law.

The concluding chapter is devoted to a discussion of the international legal community. Like all other law, international law is the product of the legal consciousness of a community which in this case transcends the state. It does not derive its binding validity from the several states, nor are these the subjects of international law. Like the law of the state it embodies norms for the regulation of various interests which are not, however, state interests. The international community lacks the character of a state merely because there have not developed for it independent organs for the evaluation of interests and the determination of rights based thereon. But the course of evolution is in this direction. The author believes, however, that just as in the evolution of the national state an essential stage was that of absolute monarchy in which there was developed an "apparatus of power" including army, police and public administration, so the realization of the world state will be accomplished only in connection with the establishment of a supreme authority endowed with compulsory means of enforcing its will. But just as the legal state has succeeded to the absolutistic state within the national area, so eventually will evolve a legal world state which will exemplify the sovereign rule of law coincident with humanity.

WALTER JAMES SHEPARD.

University of Missouri.

The Society of Free States. By DWIGHT W. MORROW. (New York: Harper and Brothers. 1919. Pp. 224.)

The Psychology of Nationality and Internationalism. By W. B. PILLSBURY. (New York: D. Appleton and Company. Pp. 314.)

The Psychology of Nations. By G. E. PARTRIDGE. (New York: The Macmillan Company. 1919. Pp. 333.)

The New Social Order. By HARRY F. WARD. (New York: The Macmillan Company. 1919. Pp. 384.)

It was to be expected that so fundamental a change in the organization of the world of states as that foreshadowed by the League of Nations should produce its reactions in the fields of sociology, psychol-

ogy and ethics, as well as in the fields of political and economic science which it more directly concerned. The problem at issue is the reconciliation of national independence with international law and order. Obviously some measure of the sovereignty which has been the traditional attribute of states must yield to the demand for common institutions which shall adjust the conflicting claims to which separate units of government inevitably give rise. Mr. Morrow's volume is concerned with the political aspect of this reconciliation. After sketching earlier projects for world peace he reviews the international agencies that have been forced upon the world by the demands of commerce, together with the more recent agencies that were created by the Allies during the war against Germany. The principle of nationality is next discussed as a concrete problem, and the question is raised, though not answered, what compromises must be made to adjust the desire for national self-government to the desire of men for world order. The concluding chapter contains a brief but incisive commentary upon the draft covenant of the league, and is followed by the text of the covenant as finally adopted.

The volumes by Pillsbury and Partridge are concerned with the problem of nationality in its psychological aspects. Professor Pillsbury analyzes the physical and mental factors of nationality and its historical development, studies the national mind and "how it thinks, feels, and acts," shows what the nation means as an ideal and what is its relation to the state, and in his concluding chapter argues that nationality is not the last word in political organization, but that a supernationality as expressed in a league of nations is a feasible as well as a necessary step forward. The argument is well-reasoned throughout.

Mr. Partridge pursues the problem of nationality back to its biological foundations, and gives us a suggestive study of the motives of war in the light of the general principles of the development of society. He shows that war is the product "of the whole character of nations." The "motive of power" is the principle of war and manifests itself in the "intoxication impulse" and in the idea of national honor and in the political motives of war. The second part of the volume deals with the educational problem, and shows the necessity of educating the national consciousness with reference to the creation of a world consciousness. Neither of the two volumes regard the practical issues involved in international organization as within their scope.

The problem of a league of nations forms but a single chapter in Professor Ward's ethical study of "impending social change" brought about by the conjunction of "economic pressure and idealistic impulse" caused by the recent war. Part I discusses the principles of the new order, equality, universal service, efficiency, the supremacy of personality, and solidarity; while Part II takes up the practical programs for the new order, including the British Labor party, and the Russian Soviet Republic. The chapter on the League of Nations comments on the chief articles of the covenant, and the conclusion is reached that if the league is to serve its true purpose it must develop its present bureaucratic machinery into a "Parliament of the Peoples."

The literature of the League of Nations in all its phases is growing monthly in volume, but there is still need of a more thorough and scientific analysis of the underlying principles of the league and of the facts of international life upon which its success is conditioned. In spite of the unending debates in the senate, perhaps because of them, the authoritative word must be spoken by a scholar who not only knows the history of international law in the past, but who can weigh and appraise the political, economic, social, psychological, and moral forces which will determine the practicability of an effective international organization.

C. G. FENWICK.

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The Economic Consequences of the Peace. By JOHN MAYNARD KEYNES. (New York: Harcourt, Brace and Howe. Pp. 298.)

This is a brilliant, penetrating, stimulating, book; but it is also unbalanced, inconclusive, and unconvincing. The author's qualifications commend him highly. He is one of the most eminent of the younger British economists, and his connection with the treasury during the war, as well as his service as the treasury's representative at the Peace Conference and as deputy for the chancellor of the exchequer on the supreme economic council, brought him into first-hand contact with the problems that he discusses. He is not only liberal-minded but uncommonly free from national prejudice. Furthermore, he writes exceedingly well. His pen-picture of the Council of Four at work, whether or not entirely accurate, is unforgettable.

The book is a sweeping indictment of the treaty. The points that it seeks chiefly to establish are: (1) the Peace Conference was domi-

nated by the clash of two main programs, namely, a "Carthaginian peace," carried out on the principle of *vae victis*, and a magnanimous peace, based on the ideology of the fourteen points; (2) owing largely to President Wilson's temperament and lack of exact information, the Carthaginian policy triumphed, and the treaty became a dishonest evasion of the basis on which Germany had been given to understand that she had surrendered; (3) the treaty was, in the main, dictated by France, and has as its primary object "to set the clock back and to undo what, since 1870, the progress of Germany had accomplished;" (4) the treaty utterly ignores economic realities, for example, the interdependence of European peoples, the impoverishment of Germany, and the inability of the former empire even to begin to redress the wrong it has done unless its economic recovery is permitted; (5) the treaty in its present form cannot be enforced and would prove ruinous to all Europe if it were enforced; and (6) the instrument, therefore, must be immediately revised. Germany's payments to the Allies, we are told, must be fixed at not more than seven and one-half billion dollars, exclusive of the property already turned over. The reparations commission must be abolished or put under powerful restraint. The coal clauses must be abrogated. After ten years of reciprocal shipments of coal and iron ore by France and Germany, the Saar Valley must be returned to the latter. Austria must not be subject to reparations. Finally, although this is outside the domain of the treaty, all indebtedness between the governments of the allied and associated countries should forthwith be canceled, and a huge international loan should be floated to furnish the means of rebuilding Europe.

In this remarkable criticism there is much that is plausible and a good deal that is unquestionably true. The treaty is not perfect, and nobody supposes that it is final. But Mr. Keynes's appraisal furnishes no sure guide to the instrument's merits and faults. He resigned his official duties and withdrew from the scene when he found that things were not going his way, and he wrote when hardly in a frame of mind to judge dispassionately the events in which he had participated. As a result, his book gives more evidence of moral indignation than of intellectual discrimination, and his language is often lacking in scholarly restraint. In the second place, the author's vision, while uncommonly penetrating in the directions in which he looks, fails to sweep the entire horizon. Mr. Keynes is interested in economic subjects and impatient with political matters, and his treat-

ment of his theme suffers throughout from a lack of political perspective. He attaches a greater degree of finality to the treaty than the facts warrant. He constantly expects the worst to happen, naïvely assuming, for example, that the reparations commission will persistently demand the impossible of Germany, even though the larger and ultimate interests of the people in whose behalf reparation is asked dictate a milder course. He extols the fourteen points, yet is bound to admit that on some subjects they were ambiguous, and that they gave no answer at all to many insistent questions.

In an honest and courageous effort to be fair, Mr. Keynes leans decidedly backwards, and his entire body of ideas becomes essentially —to use a term employed by a recent critic—Germanocentric. He is wrong in saying that Germany was the "central support" of the European economic system before the war; he is no less in error in testing every phase of the new peace by the effect which he expects it to have on Germany's place in the new world order.

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The Powers and Aims of Western Democracy. By WILLIAM MILLIGAN SLOANE. (New York: Charles Scribner's Sons. 1919. Pp. xiii, 489.)

It was undoubtedly the intention of Professor Sloane to provide in this volume a body of teaching to counteract dangerous current tendencies in the direction of "red radicalism." There is no effort made to contribute to the material side of political knowledge; the thirty chapters embody solely the writer's vehement beliefs on democracy and general politics.

After a vitriolic introduction, dealing with "The Passing Age in Politics," an attempt is made to trace the development of the democratic idea from the earliest times to the present, with reference to the inherent principles and external forms of democracy, as well as to assess some of the advantages and disadvantages of that political creed. There follows a study of the evolution of the modern "nation" in theory and history, in contrast to the oriental and the medieval state, with some analysis of the internal organization of the modern national state. Finally there is presented a description of the relations between democracy and nationality and "the struggle for peace" as they appear to the author.

The conclusions are difficult to find. The book does not so much build up conclusions as elaborate passionate beliefs. The treatment is incorrigibly discursive and verbose. The tone is one of vigorous assertion rather than one of cautious investigation. No one of the many pieces of fact and fancy employed in spinning out the gospel is substantiated by any reference to external evidence. It is doubtful whether the cause of law and order, of truth and reason, is aided by such efforts, however sincere the author's intention.

When the writer indulges so constantly in abusive language and violent epithet the doubt felt as to the value of such work deepens. Finally, when the text makes clear that the writer simply neither knows that which he pretends to discuss (as in the astounding definitions of Socialism, majority and minority Socialists, Bolsheviki and Mensheviki) nor accurately gauges the most elementary currents of public opinion in America (as in the assertion that America desired a plebiscite in Alsace-Lorraine), one is thoroughly discouraged at the idea of any positive results from the labors of the author.

PITMAN B. POTTER.

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Federal Power: Its Growth and Necessity. By HENRY LITCHFIELD WEST. (New York: George H. Doran Company. 1918. Pp. xi, 216.)

One of the outstanding facts of political development in the United States has been the greatly increased authority of the federal government. Mr. West has done a useful thing in describing the growth of federal power and showing that it has had its roots in the past. "Its continued manifestation upon a constantly enlarging scale is as inevitable as fate," and the author makes suggestions as to advisable reforms in the federal system: some sort of cabinet responsibility to Congress and a diminution of the authority of the President, particularly with regard to vetoes and appointments. The reader may approve the one and disapprove the other.

The opinion may be ventured, however, that Mr. West has left undiscussed the two most important questions with regard to the federal power. In the first place, how is the authority of the national government to be extended constitutionally? Is it to be by amendment, or by indirect action under the commerce, postal, and taxing clauses, and if by the latter method is this proper? Is the control to be exerted coercively or paternally and in what fields?

Secondly, it is now a commonplace that either through cumbersome rules, sheer incapacity, or multiplicity of duties, Congress does not perform its proper functions. Is there to be devolution and if so, of what sort? Will it be geographical or according to interests, as in the case of the national industrial councils in England?

But there is no reason to quarrel with Mr. West because he has not written a different sort of book. These questions have been asked, because the two problems are involved in the question of federal power and offer an almost virgin field for inquiry. The present volume describes the past in general terms and in a readable and for the most part accurate manner.

LINDSAY ROGERS.

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George von Lengerke Meyer. His Life and Public Services. By M. A. DEWOLFE HOWE. (New York: Dodd, Mead and Company. Pp. 519.)

In the preparation of this work, Mr. Howe has followed the golden rule for biographers, by allowing his subject, so far as possible, to tell his own story. Letters and diary entries in large measure make up the five hundred pages of this substantial volume. They constitute the record of an interesting, useful and busy life. It might be said of George Meyer, as Lowell did of Josiah Quincy:

"This was in all ways a beautiful and fortunate life—fortunate in the goods of this world—fortunate, above all, in the force of character which makes fortune secondary and subservient."

Meyer was "well born," as the phrase goes. His father was a successful merchant, of German descent. His mother was of pure New England stock. He was graduated at Harvard University in 1879. The life of a man of ease and fashion was open to him. He loved sport. It is said that he "first came into prominence on horseback." But from early life his habits were industrious, and he was inspired with the ideal of public service. During the first ten years after leaving college, he devoted himself to business, and, as Mr. Howe says, "he laid the foundations of a well deserved reputation for sagacity and acumen in business matters."

He entered public life in 1889, when he was elected a member of the Boston common council. In 1892, he became a member of the state legislature, and in 1895, he was chosen to be speaker of the house,

a position which he held for three years. His party interest and activities made him a delegate to the Republican national convention in 1900, and led to his appointment by President McKinley as ambassador to Italy in December of that year, at the age of forty-two. Four years in Rome, two years as ambassador to Russia, two years as postmaster-general in President Roosevelt's cabinet, and four years as secretary of the navy under President Taft; this is the outline of Meyer's services in the national government. His diary and his letters contain the record of these abundant years.

"It was rather as a 'listening post' in the European world than as a station for difficult work in diplomacy," says Mr. Howe, "that Rome gave Meyer his opportunities for valuable service during the four years of his ambassadorship; and in establishing many relations of intimacy and friendship, he was constantly turning the pleasant life he led to valuable purposes of his own government."

He formed warm friendships with representative men and women of all classes in Italy, and won the confidence of the government to which he was accredited, as well as of his colleagues in the diplomatic corps. During this period, he attended the yacht races at Kiel, where he met and formed an acquaintance with the Emperor of Germany, which later proved of value to him and to his country.

In January, 1905, President Roosevelt wrote to Meyer expressing his intention of appointing him ambassador to Russia. "St. Petersburg," he said, "is at the moment, and bids fair to continue to be for at least a year, the most important post in the diplomatic service, from the standpoint of work to be done, and you come in the category of public servants who desire to do public work, as distinguished from those whose desire is merely to occupy public place—a class for whom I have no particular respect."

The prologue to the great Russian tragedy was enacted a few days before Meyer left Rome for his new post, when the Tsar refused to receive from Father Gapon a petition on behalf of the workingmen of Russia, and the troops fired upon the crowd, killing and wounding a number of people. January 22, 1905, Meyer, noting this fact in his diary, prophetically adds: "Probably the commencement of a revolution, and possible fate of the Tsar as ruler of Russia."

He elaborated his thought in a letter to the President: "The historical relations between the people and the Tsars explain how it was possible that those unarmed Russians should have entertained the hope that they would be permitted to see the Tsar in person and lay

their petition at his feet. The pathetic trust the people have put in the Tsar has failed them, and they have lost their blind faith in him, and they are now ripe for socialistic agitations."

His observations concerning this incident illustrate Meyer's ability correctly to interpret the significance of public events—a capacity which served him well during his years of foreign service. His letters and diary entries record in great detail his dealings with the Tsar, under instructions from President Roosevelt, during the Portsmouth Conference.

Meyer's accounts of the meeting of the first Duma in May, 1906, the characteristics of its members, and the attitude of the Tsar and his court towards them, clearly indicate the strength of the current which was setting against the imperial government. Yet, he records:

"The court party appears to be laboring under the delusion that the Duma misrepresents the nation. They are apparently as blind to the storm that is gathering as they were to the evidences which foretold a naval defeat to Rodjestvensky. I cannot help but take a pessimistic view as to the future, when I see evidences almost everywhere of a communistic spirit among the workmen and peasants. Added to this is the fact that the Government throughout the year has been driving even the moderate element which are now unorganized, over to the extremists. . . . . The Tsar is stronger in ideals than in achievements. The education of the masses has been shamefully neglected. The Jews have been persecuted and massacred. The bureaucracy is corrupt and unpatriotic. There are no leaders on either side. The revolutionists want capital punishment abolished, but freedom to use the bomb."

This is the note of doom. The *dénouement* was postponed longer than Mr. Meyer apprehended. But the conditions which he noted inevitably led to the collapse of government and the chaos which now reigns in the Russian Empire.

From the picturesque and dramatic life of ambassador to Russia, Mr. Meyer was transferred in 1907 to the toilsome office of postmaster-general in President Roosevelt's cabinet. He addressed himself to his new work as to a business problem of first importance. The ability he displayed in dealing with the problems of the post office department led President Taft, in 1909, to appoint him secretary of the navy. The navy department had suffered from having had six secretaries during the seven years of Roosevelt's administration. After thorough investigation and careful study, Meyer brought about a complete

reorganization, resulting in increased efficiency and greatly reduced cost. He reorganized the active fleet, placing it upon a war basis and maintaining seventeen battleships at all times in cruising condition at sea. He divided the business of the department into four parts, each under the supervision of a naval aid to the secretary.

The value of this work was quickly recognized. Admiral Sims writes that "Mr. Meyer's great service to the Navy was that he placed the control of the Navy, and particularly the control of the design of all of our vessels, in the hands of line officers." That is, he put the control of the navy as a fighting machine in the hands of those who were to direct the fighting. He drew into close association with him the most competent officers in the service. Towards the close of his administration he told a friend that no other employment ever had given him so much keen pleasure and inspiration as this.

During the unhappy controversy after the renomination of Mr. Taft for the presidency in 1912, despite his love for Roosevelt, Meyer remained loyal to Taft. He strongly entertained and indorsed the opinion expressed in Senator Root's speech of announcement to the President, "Your title to the nomination is as clear and unimpeachable as the title of any candidate of any party since political conventions began."

The few years remaining to Meyer after he left public office in 1913 were full of interest. His letters describe two visits to Europe. In 1913, he was the guest of the Kaiser on his yacht at Kiel, a visit described at length in his diary. He was in Germany in August, 1914, at the outbreak of the great war. Upon his return home, he threw himself with ardor into the campaign for preparedness, and in 1916, he worked hard on behalf of Judge Hughes' candidacy for President. His life came to an end in March, 1918, shortly before his sixtieth birthday.

"Life," says Judge Holmes, "is action, the use of one's powers. As to use them to their height, is our joy and duty, so it is the one end that justifies itself." George Meyer's life justified itself. He lived abundantly. He enjoyed life. He put forward his powers with a conscious joy in the effort. Always the interests of his country inspired him to his greatest endeavors. As President Roosevelt wrote of him, "he was a singularly useful public servant." The record of his life which Mr. Howe has so well prepared will be an inspiration and an example to the youth of our country.

GEORGE W. WICKERSHAM.

New York City.

Arguments and Speeches of William Maxwell Evarts. Edited by Sherman Evarts. (New York: The Macmillan Company. 1919. Three volumes.)

The publication of these volumes makes a notable addition to American political and legal literature. The public life of Mr. Evarts covered more than fifty of the most important and exciting years in our history. A supporter of Daniel Webster in his unsuccessful struggle for the presidency, he afterwards became a founder of the Republican party and was long active in its councils. He was a member of two cabinets, of several special commissions, and finally of the United States senate. A leading member of the New York bar, he appeared as counsel in some of the most celebrated cases of the nineteenth century. It is to be regretted that the editor has given only a bare outline of his career. Something to show his relations with the other leaders of the period would have been a valuable addition.

These volumes will not be of as great value to students of history and government as to those interested in constitutional and international law. The arguments of special interest in these latter fields are those in the Prize Cases, the Savannah Privateers Case, the Springbok Case, and in Hepburn vs. Griswold. Of particular interest is the argument before the international tribunal at Geneva, where Mr. Evarts was associated with Caleb Cushing and Morrison R. Waite as counsel for the United States in the Alabama Claims controversy. Equally important and probably of greater interest historically are the great arguments made in defense of President Johnson during the impeachment trial, and on behalf of the Republican claimants before the electoral commission of 1877.

The chief effort of Mr. Evarts' private practice, in the present collection is the selection from the closing address for the defendant in Tilton vs. Beecher. It may be questioned whether this, great forensic achievement as it was, really deserves the 245 pages devoted to it. The miscellaneous addresses, political and commemorative, have been well chosen and show a high degree of literary excellence. Perhaps Mr. Evarts is seen at his best as a public speaker in the New England Society addresses, several of which have been included. The editor's introductions and comments are brief and well chosen throughout. Taken as a whole, the volumes are a worthy memorial to one of the the influential leaders of the American bar, and of the Republican party during a difficult period of our history.

WILLIAM A. ROBINSON.

Dartmouth College.

Have Faith in Massachusetts. By CALVIN COOLIDGE. Boston and New York: Houghton Mifflin Company. Pp. x, 275.)

This is a collection of forty-three occasional addresses, official messages and proclamations, all but one of which were spoken or written by Mr. Coolidge while either lieutenant governor or governor of Massachusetts, that is, during the years 1916–19. They range from college dinner speeches to papers and utterances in connection with the strike of the Boston police.

Governor Coolidge's personality is most interesting. He forges his way to the front without the assistance and in spite of the lack of those qualities of geniality and affability which are generally supposed to be a *sine qua non* for success in American political life.

This book uncovers some of the reasons. It does not disclose any new political philosophy; there are none of the rounded periods of the conscious orator; but there is a distinct gift for setting forth old truths in pithy, epigrammatic form, and a continued insistence upon the traditional New England virtues as a saving grace in troubled times. As a phrase-maker, Governor Coolidge has few present-day equals; but the book reveals also a man well read in history; with a fine appreciation of good literature; with a keen sense of the value of education, especially that which has somehow come to be termed "a classical training;" and above all, a mind of manifest sincerity. He usually thinks straight, and he always speaks plainly. If one regrets occasionally a tinge of somewhat smug satisfaction with "things as they are," *per contra* one will not find a sentence that is mean or ignoble; if there is now and then a platitude, there is also no resort to the wiles of the demagogue nor the sophistries of the political charlatan.

The elected officer whose creed is "Don't hesitate to be as revolutionary as science—Don't hesitate to be as reactionary as the multiplication table," is too rare a figure.

Governor Coolidge is revealed as a welcome twentieth century embodiment of the somewhat old-fashioned but fine New England type of public man, and moreover as one evincing steady and hopeful growth.

JAMES P. RICHARDSON.

Dartmouth College.

The Return of the Democratic Party to Power in 1884. By HARRISON COOK THOMAS, Ph.D. (New York: Columbia University Press. 1919. Pp. 261.)

One cannot read Dr. Thomas's monograph without being impressed with the astonishingly close resemblance between the party situation in the period 1880–84 and the party situation in 1916–20. A comparison of the two periods, even with due allowance for differences, will furnish slight comfort to those who rejoice to think that they discern in the present indistinctness of party lines and absence of clear-cut fundamental issues, unmistakable symptoms of the early demise of the old parties and the emergence of new parties bearing the labels, Liberal and Conservative. For some such prediction in the early eighties there was about as much foundation as there is today.

While Dr. Thomas has evidently made a painstaking first-hand study of contemporary newspapers, biographical and autobiographical material and campaign literature, his conclusions respecting the influence of the several factors in the election of 1884 are not essentially different in most respects from those reached by earlier writers, notably Sparks, Rhodes and Stanwood.

The material in this volume is well arranged and presented in a pleasing style with a commendable degree of detachment, discrimination and impartiality. The least satisfactory part of the work is the unnecessarily long introductory sketch of political events from 1860 to 1880, which constitutes almost one-fourth of the book. The portions which come the nearest to being real contributions are those dealing with the Independent movement and the part played by Benjamin F. Butler.

Dr. Thomas has performed a real service in bringing together more widely selected and carefully digested material relating to the presidential campaign and election of 1884 than is to be found in any other volume.

P. ORMAN RAY.

Northwestern University.

Our War with Germany. By JOHN SPENCER BASSETT. (New York: Alfred A. Knopf. 1919. Pp. 378.)

Professor Bassett has written modestly and intelligently in a field in which it would be easy to go far astray, and has attained more than the "reasonable accuracy" that his preface hopes for. No better book

is as yet available for the student interested in our participation in the world war, and no other is so detached and historical-minded as this. It will be a useful handbook in the numerous courses on the history and diplomacy of the war now under way.

The least successful portion of the book is that which covers the obscure yet significant leadership of the United States in the development of the "single front," military and economic. Professor Bassett appears to have overlooked a group of facts that may prove, eventually, to cover the key to Allied victory. "Inter-allied" does not appear in his index, nor does "Supreme," which ran in the titles of many coöperative control bodies; while "Allied" appears but once, and then refers to an inadequate and misleading statement (p. 296) respecting the Allied Naval Council. The fact is that in the summer of 1917 American loans started a course of events that led irresistibly to the Supreme War Council of December, the supreme command of March, 1918, and the pooling of resources upon the basis of "work or fight" in August. Enough of the evidence on this point is visible to make it a matter of regret that Professor Bassett failed to see it.

The general survey of events lacks dramatic appreciation, and is tiresome but sound in the chapters preceding the outbreak of the war. The external facts are generally unimpeachable. Here and there a slip has been noticed: the earliest Plattsburg camp was in 1915, not 1916 (p. 121); Hoover was named food commissioner May 19, 1917, not May 20 (p. 138); the order taking over the railroads was dated December 26, not 27 (p. 150); Mr. Ryan's promotion to assistant secretary of war (p. 188) was more than an elevation in rank, for he assumed control of the division of military aeronautics, in addition to that of aircraft production; Foch seems to have become commander in chief March 26, 1918, two days earlier than Mr. Bassett's date (p. 221); action on the Saloniki front began September 15, 1918, not September 16 (p. 263).

Such errors are trifles. The book is a commendable and useful enterprise.

FREDERIC L. PAXSON.

University of Wisconsin.

The German Empire, 1867-1914, and the Unity Movement. By WILLIAM HARBUTT DAWSON. (New York: The Macmillan Company. 1919. Two volumes.)

This is a good, perhaps the best, considerable work in English on the political history of Germany since the establishment of German unity. This is not extravagant praise, for good accounts in English are few. Sir A. W. Ward's recent volumes are rather crammed with minutiae and do not deal with the last years before the great war. Mr. Grant Robertson's *Bismarck* is an exceptionally brilliant biography, but naturally says but little of the German *Weltpolitik* after the Iron Chancellor surrendered the helm to his impetuous imperial successor. Mr. Dawson's own admirable earlier works on German tariffs, socialism, municipal government, and *The Evolution of Modern Germany* lead one to expect a high level of interest and excellence in the present work. The expectations are nearly but not quite fulfilled. This is probably because the author's special studies on Germany heretofore have been mainly on the side of economics and government; but in these two volumes he ventured to give some three-quarters of the space to diplomatic history, with which we suspect he is less familiar. In fact he often spreads out his narrative into a pedestrian account of general European politics so far as Germany was involved in them, instead of interpreting in detail the secret springs of German policy and weighing nicely her gains and losses. In the account of the Crimean War he is too hard on Sir Stratford de Redcliffe. He is totally unacquainted with the details of Bismarck's Reinsurance Treaties with Russia, because he had not read Goriainov's article in the *American Historical Review* (January, 1918). He does not make sufficiently clear the disastrous effects on German foreign policy exerted by Emperor William II's personal influence and by the mediocre advisers with whom he surrounded himself after Bismarck's dismissal. On the other hand, it is a pleasure to read a work which is so impartial and objective. Though it was written during the war and completed just after the armistice was signed, the author was in no way warped in his judgments by the passions which the war has stirred in so many. In fact in the chapters on the Morocco Affair he gives a much more sympathetic consideration of Germany's side of the case than is to be found in most French and English books.

As to general emphasis, one may say, on the whole, the events of the Bismarckian era are treated in more detail and are handled in a

more satisfactory way than those of the post-Bismarckian age; this is perhaps natural since our sources of information are so much fuller for the earlier period, and so many sound books have been written upon different phases of it. But precisely because there is such a dearth of sympathetic and scholarly accounts of Germany under William II we could have wished that Mr. Dawson had been able to devote a relatively greater amount of space to the period since 1890. But it is ungracious to find fault with an author for the way he chooses to treat his subject. And we repeat that the general reader will scarcely find in English a better explanation of Germany's rise to European domination through the establishment of political unity and Bismarck's genius, and of her loss of this leading position through the anxiety and drawing together of her neighbors on account of her threatening *Weltpolitik* and the follies of the Kaiser and his advisers.

The chapters on domestic affairs, tariffs, railroads, colonial expansion, and social legislation are brief but excellent and accurate; we could have wished that they had been fuller had not the author already dealt with them in considerable detail in the recent enlarged edition of his *Evolution of Modern Germany.*

SIDNEY B. FAY.

Smith College.

The Secret Treaties of Austria-Hungary, 1879-1914. Vol I: Texts of the Treaties and Agreements. Edited by Alfred Franzis Pribram and Archibald Cary Coolidge. (Cambridge: Harvard University Press. Pp. 308.)

One result of the destruction and collapse of several old governments in Europe is that the supposed need for secrecy in the affairs of state which concerned them has disappeared. The process of revelation throws considerable light on the affairs of governments which still exist and whose secrets are being maintained. Professor Pribram has begun a work of supreme value based upon material in the archives of Austria-Hungary, which promises to reveal a large part of the internal structure and workings of the European state-system as it existed during the period of "armed peace" between the Treaty of Berlin and the outbreak of the great war. The central documents of the vast yet incomplete "League of Nations" of which Austria formed a part are presented in this volume, together with a preface by the American editor, a general preface by the Austrian editor, and the latter's intro-

duction to his discussion of the negotiations which led up to the five treaties of the Triple Alliance. Professor Pribram plans to complete the discussion of the secret treaties, and then to embark upon an extensive history of the foreign policy of Austria-Hungary during the same period.

Seventy-two documents are presented here, grouped under twenty-eight heads, and arranged in general in chronological order. The heads may be classified further as follows: three relate to the Austro-German Alliance, three to the League of the Three Emperors, five to the Triple Alliance, and two to Austro-Italian Balkan agreements; five concern the adhesion of Rumania to the Triple Alliance, and two the Austro-Serbian Alliance; five are Mediterranean agreements, two of which are between Great Britain, Italy, and Austria-Hungary, and two between Spain, Italy, and Austria-Hungary, while the fifth is a naval agreement between the powers of the Triple Alliance of as late a date as 1913; there is an Austro-Russian Balkan agreement and a declaration of mutual neutrality by these two nations (1904); and lastly the Russo-German "Reinsurance Treaty" is presented, the only instrument that does not directly involve Austria-Hungary. If any secret treaties were made by Austria with Bulgaria and Turkey, they do not appear.

Professor Pribram's introduction sets forth the salient facts in the development of the treaties of the Triple Alliance. He endeavors to establish that Italy had the best of the bargain in this arrangement, and Austria the worst, but he is on the whole remarkably impartial. He indicates the divergencies between what has been guessed in regard to the treaties, and their actual provisions.

The documents illuminate many events of the time. For example, it becomes clear why Italy and Austria stood firmly together for an autonomous Albania in 1912–13 (p. 197), and why Austria and Russia accepted the Treaty of Bucharest in 1913, with its equilibrium between Bulgaria, Serbia, and Greece (pp. 189, 195). Among the surprising revelations are the provisions, renewed even in 1912, by which the Central Powers might in certain circumstances assist Italy to take French territory in North Africa and even in Europe (p. 251), and by which England was regarded as in full agreement with Austria-Hungary and Italy on a policy for the Near East (p. 255).

In fact, the measure of European unity and the degree of steadiness and faithful adherence to agreed policies that are displayed in the entire scheme go well beyond ordinary cynical affirmations. The

powers of the Triple Alliance, with support to a limited extent from Russia, England, Spain, Serbia, and Rumania, were in agreement toward the maintenance of the *status quo* in domestic and international affairs. As far as appears in the documents, only Italy and Serbia contemplated expansion, the former in Tripoli, Tunisia, and France, the latter southward, perhaps "in the direction of the Vardar as far as circumstances will permit" (p. 137). The system was immensely strong as long as it was conservative, but it could not sustain the results of the expansion of Italy and Serbia, when added to the ambitions of Germany on the sea and in Turkey. Britain and Russia drew away (joining with France in a rival system, the Triple Entente); and in the end Serbia, Italy, and Rumania followed. Then in a sense the outward pull of the four peoples last mentioned destroyed the Austro-Hungarian Empire.

The editing and translating are excellent. All German and French documents are given both in the original and in English translation.

ALBERT HOWE LYBYER.

University of Illinois.

The Russian Pendulum. Autocracy, Democracy, Bolshevism. By ARTHUR BULLARD. (New York: The Macmillan Company. 1919. Pp. xiv, 256.)

This little volume is divided into three books: European Russia, Siberia, and What's to be Done. Book I gives the background and reviews the social, political, and economic conditions of European Russia from the March revolution until the time of writing, about July, 1919. Book II deals with the Siberian railway situation and the attempt by Kolchak and his predecessors to organize a stable government. Book III discusses whether the policy of the Allies should be one of "Hands Off!" or of "Stand By."

Few American journalists are as well qualified to write on Russia as the author. He has lived in that country and was interested in its institutions long before the revolution of 1917. He knew many of the Socialist leaders when they lived in exile. He heard them plot the overthrow of governments and he listened to their schemes of social reform. Notwithstanding that, or perhaps because of that, he has failed to be impressed by their idealistic phrases and has demanded from them that their words square with their deeds. This explains why, after watching them in Russia for two years (1917–19), he finds

so little to admire and so much to condemn in "The Bolsheviki at Work."

The part which treats of Siberia is instructive and throws light into many dark corners. The author admits that Kolchak is a better man than he thought him to be when he came into power; that he "is a very astute politician;" that he was trying to do the very best that he could; and that he was more than willing to coöperate with the Allies if they would only agree on a policy. But the problems are so complex, the points of view and interests of the Allies so different, that agreements among themselves are as difficult to reach as among the various factions in Russia.

As between the policy of "Hands Off!" and "Stand By" in Russia, Mr. Bullard argues for the latter. The book was written when the Peace Conference was still in session and at that time he favored recognizing one of the liberal factions and helping it organize a democratic government for Russia. In conclusion the author makes an earnest plea for patience with the Russians and coöperation with them, particularly along educational lines.

Though the material is not well organized and the observations not very profound, yet *The Russian Pendulum* is one of the very few good books in English on present day Russia.

F. A. GOLDER.

Washington State College.

Public Debts in China. By FENG-HUA HUANG. (Columbia University Studies in History, Economics and Public Law. Volume lxxxv, No. 2. New York. 1919. Pp. 105.)

Dr. Huang classifies the loans as domestic, indemnity and war, railway, general, and provincial (domestic and foreign), and devotes separate chapters to each class. In the main, the work is one of compilation and summarization of the terms of the loan contracts. There is, however, a concluding chapter in which Dr. Huang states certain conclusions and makes some suggestions. The evils arising from the fact that so many of the loans have been complicated with international politics; that old loans are not paid from current revenues, but taken care of by new loans; that money has been borrowed for meeting ordinary operating expenses of government; that foreign loans have been made by administrative subdivisions, and without authority from the central government; that the terms of the loans have often

been too long and too rigid, and have carried with them options for additional loans that are necessarily disadvantageous to China; that railway loans have in so many cases provided for foreign operating control of the lines concerned; all of these evils, of which every student of Chinese affairs is aware, are pointed out.

As regards constructive criticism, Dr. Huang recommends that every possible opportunity be seized by the Chinese government to consolidate its public loans, to simplify and moderate their terms, and to take steps looking towards their payment from taxes or other ordinary sources of revenue. In his concluding paragraph the fact is recognized, that these results cannot be reached until parliamentary control over public finance is more complete, and a more honest and efficient body of public servants is secured. The monograph closes with thes entence: "Perhaps for the time being it may be necessary to supplement the civil service system with a voluntary and non-political employment of foreign technical experts for assistance, as China can reform and reorganize the whole country more expeditiously by relying on expert guidance." The reviewer would make this statement still stronger. There must, in his opinion, be not only guidance but a certain amount of overhead control. The foreign experts must be authorized not only to advise, but, in many matters, to dictate.

W. W. Willoughby.

Johns Hopkins University.

The Conflict of Laws Relating to Bills and Notes. By Ernest G. Lorenzen. (New Haven: Yale University Press. 1919. Pp. 337.)

In these days when so much commercial intercourse hurdles state and national boundaries, it is little less than a disgrace that the rights flowing from commercial paper should be so often dependent upon the choice of a forum by the unsatisfied creditor. Yet the jurisdictions of the world vary not only in their law of bills and notes but in their law of conflict of laws applicable to bills and notes. This sad state of affairs has prompted Professor Lorenzen to make an exhaustive study of the divergencies that exist, to outline the practical and theoretical considerations for and against each particular rule, and to suggest which should be adopted in a uniform code so that the evils of the present chaos may be abolished.

The matters dealt with are highly technical, and the work offers a diet that can be digested only by specialists. It affords a valuable model for similar studies in many other fields and serves to remind us that many important problems of government remain for consideration after the last college course in political science has been completed. Professor Lorenzen shows some signs of enjoying more faith in the possibility of attaining uniformity of law than the present state of the world justifies. People do not lightly give up the rules with which they are familiar, even when convinced that both theoretical and practical considerations are against them. But such studies as this are necessary first steps in any effort to improve the situation.

THOMAS REED POWELL.

Columbia University.

MINOR NOTICES

Ludendorff's Own Story (N. Y. and London. Harper & Bros., 2 vols., 477, 473 pp.), like other personal narratives of the world war already published, is of interest, not only for the record of military events by one of the most prominent military leaders, but also for the light it throws on the mental attitude and processes of the author. Students of government and political science will find in it information on the administration of occupied territory in the East, difficulties due to the absence of a unified command in the Eastern theater, conflicts between the military and political authorities in the German government, and the increasing activity of the army general headquarters in political and diplomatic affairs. After an introductory chapter on "My Thoughts and Actions," and one on "Liège," the main body of the work falls into two large divisions, dealing with the author's service as chief of the general staff on the Eastern front (from August 22, 1914, to August 28, 1916), and as first quartermaster-general (from August 29, 1916, to October 26, 1918).

An interesting account of the way in which the work of the committee on public information was carried on during the war is contained in Vira B. Whitehouse's *A Year as a Government Agent* (Harper & Bros., 316 pp.). The author was in charge of the committee's affairs in Switzerland and her account of her difficulties and achievements, the former particularly, is both readable and illuminating. Of especial

significance is the story of this strenuous woman's encounter with the American diplomatic representatives at the Swiss capital. It indicates that the liaison between our state department and Mr. Creel's committee was not always of the most intimate character. Doubtless there is another side to the whole narration, but the reader will find in this book some surprising evidence of the defective team play which marked our propaganda efforts during the days of the great emergency.

Under the title *Man or the State* (N. Y., Huebsch, 141 pp.) Waldo R. Browne has put together a group of essays by several of the leading individualist and philosophical anarchist writers of the nineteenth century, namely—Kropotkin, Buckle, Emerson, Thoreau, Spencer, Tolstoy, and Wilde. The editor's purpose is to make more available to the present generation typical specimens of a way of thinking about politics long since grown unfashionable. He might well have included illustrations of the thought of certain other writers akin to the above, notably Nietsche, whose message, such as it is, is no less inaccessible to the modern reader.

Francis Neilson's new book on *The Old Freedom* (N. Y., Huebsch, 176 pp.) is a plea for "giving community values to the community," thus restoring "natural rights and economic freedom." There are chapters on such topics as "Democracies of the Past," and "Municipalization versus Nationalization." The author writes in an effective and interesting way although the arrangement of his material would stand improvement.

As an antidote for Mr. Neilson's title, perhaps, Randolph Bourne's *Untimely Papers* (N. Y., Huebsch, 230 pp.) leads off with a chapter on "The Old Tyrannies." Other essays in this book, such as "The Collapse of American Strategy" set forth the philosophy of the conscientious objector.

Mr. James Brown Scott has added to the two volumes on the *Judicial Settlement of Controversies between States of the American Union*, which were reviewed in our last issue, an additional volume containing an analysis of the decisions (Oxford, The Clarendon Press, 548 pp.). This volume, like the others, is issued under the auspices of the Carnegie Endowment for International Peace.

A number of official and other publications on the reconstruction or reorganization of state government have been published within recent months. *The Report of the Reconstruction Commission* of New York State, issued in October, 1919, is a comprehensive document of 413 pages, analyzing the present administrative organization of the state, and presenting a definite plan for a more consolidated system. Brief reports have been made by the Michigan state reconstruction commission (26 pp.) and by a special legislative committee in Wisconsin (30 pp.). The North Carolina Club has issued a pamphlet on *State Reconstruction Studies* (57 pp.), outlining the plans of the state reconstruction commission, and for a series of coöperative studies being undertaken by club committees. The Mississippi Historical Society has published, as volume 3 of its centennial series, a study of *Public Administration in Mississippi* (278 pp.), by Professor A. B. Butts of the state agricultural and mechanical college.

The legislative reference bureau of Illinois, under the superintendence of Dr. W. F. Dodd, has prepared and published for the Illinois constitutional convention a series of fifteen bulletins, aggregating about 1200 pages, on the problems to come before the convention, with a consolidated index. These include studies on the organization and procedure of the convention, the various articles of the constitution, and newer social, industrial and political problems. Another pamphlet gives the texts of the several Illinois constitutions, with the corresponding sections of each constitution arranged together for purposes of comparison. A larger pamphlet of 300 pages presents the present constitution, with somewhat detailed annotations under each section, based on judicial decisions, forming in effect a substantial volume on the constitutional law of the state.

Teachers' Pension Systems in the United States, by Paul Studensky, is the latest volume in the publications issued by the Institute of Government Research (Appleton, 460 pp.). Those who are interested in the problems of state and municipal school administration will find a great deal of useful information in the various chapters which deal with the pension systems of today. The author points out that many of our state and local pension systems are unscientific and that the reserves behind them are altogether inadequate. Likewise he presents an analysis of those pension plans (particularly in New Jersey, Ohio and Vermont), which have now been placed upon a proper basis. The

whole study is a notable contribution to the literature of a complicated but important phase of public administration.

The third volume in a series of books dealing with the history of the English laboring classes, by J. L. and Barbara Hammond, has been published by Longmans, Green & Co., under the title *The Skilled Laborer, 1760–1882.* Previous volumes have dealt with the town laborer and with the village laborer during the same period. In this book, as might be expected, attention is particularly devoted to the factory workman during the era of the industrial revolution. Unfortunately there is not much information concerning the relation of labor to the development of English politics during the period prior to the great reform statute, although this aspect of things is not wholly neglected.

Currency and Credit, by R. G. Hawtrey (Longmans, Green & Co., 393 pp.), adds another to the legion of available books which deal with the ramifications of money. The author's apology, which may be readily accepted, is that he deals with the subject in the light of the transcendent changes which have taken place within the last few years. There are interesting chapters on "War Finance" and "War Inflation," two topics which may be logically within the circle of the economist, but which the student of contemporary politics can hardly afford to disregard.

A new book by the well-known economist, Professor Irving Fisher of Yale University, is entitled, *Stabilizing the Dollar* (Macmillan, 305 pp.). The initial postulate of the volume is that the purchasing power of the dollar remains uncertain and variable. The chief aim of the volume is to demonstrate that permanent stability can be secured by methods which the author sets forth in detail. The close association between economic and political problems at the present day warrants for this book the attention of political scientists.

The Macmillan Company has published for Professor F. W. Taussig of Harvard a volume on *Free Trade, The Tariff and Reciprocity* (219 pp.). The opening chapter deals with the present position of the doctrine of free trade, with the conclusion that however widely this doctrine may have been rejected in the world of politics, it still holds its own in the sphere of the intellect. Then follows an interesting essay

on "Abraham Lincoln on the Tariff," with an exposure of a popular myth concerning Lincoln's tariff views. Other chapters deal with various economic aspects of the tariff and the book concludes with a discussion of tariff problems after the war.

F. J. C. Hearnshaw's *Europe in the Nineteenth Century* (Macmillan, 180 pp.) gives a bird's-eye view of the subject, including a preliminary chapter on democracy and the French Revolution. The volume is an abridgment in substance of the author's *Main Currents of European History*, published a few years ago, but it has not been extracted from the latter book by scissors-and-paste-pot methods. Mr. Hearnshaw tells his story with skill and vitality.

Messrs. Fleming H. Revell Company have brought out recently a volume by Dr. Newell Dwight Hillis on *Rebuilding Europe in the Face of World-Wide Bolshevism* (256 pp.). The arrangement of the book is by countries, the contemporary problems of reconstruction in Germany, France, Great Britain, the United States and "the little nations" being discussed in successive chapters.

Kevork Aslan's little book on *Armenia and the Armenians* (Macmillan, 138 pp.) contains a sketch of this unhappy country's history from earliest times to the outbreak of the great war. It is a concise and readable outline, giving not only the main currents of political development but also some information concerning economic and social organization.

The Carnegie Endowment for International Peace has issued in its series of Preliminary Economic Studies of the War a volume on *British Labor Conditions and Legislation during the War*, by Professor M. B. Hammond of Ohio State University.

Students of the coöperative movement will find some useful information, lucidly set forth, in Albert Sonnichsen's *Consumers' Co-operation* (Macmillan, 223 pp.). The book outlines the origin and development of retail coöperation both in Great Britain and on the Continent; it also devotes attention to the coöperative movement as a factor in the social revolution. One rather brief chapter is devoted to coöperative undertakings in the United States.

The Scientific Spirit and Social Work, by Arthur James Todd, (Macmillan, 212 pp.) deals with the philosophical and psychological principles upon which the author believes sound social work to be based. Some chapters on the trend of social movements and their relation to other branches of reform are included in order to give social workers their orientation.

In a small volume on *The Unsolved Riddle of Social Justice* (John Lane Co., 152 pp.) Professor Stephen Leacock advocates a progressive movement of social control, based upon the general principle of equality of opportunity. The chief immediate direction of social effort should be to secure adequate food, clothing, education and an opportunity in life for the children.

Bertram Pickard's booklet on *A Reasonable Revolution* (Macmillan, 78 pp.) is a discussion of the state bonus scheme, and a proposal for a national minimum wage.

The Weil Lectures, delivered at the University of North Carolina in 1919 by Professor Jacob H. Hollander of Johns Hopkins University, have been published under the title of *American Citizenship and Economic Welfare* (Johns Hopkins Press, 122 pp.).

The Opium Monopoly, by Ellen N. La Motte (Macmillan, 84 pp.), contains a discussion of the oriental opium monopolies together with a history of the trade in China.

A short history of *Taxation in Nevada* (199 pp.) by Professor Romanzo Adams of the University of Nevada has been published by the Nevada Historical Society.

The Railroad Problem, A Suggestion, by Walter W. Davis, is published by Messrs. G. P. Putnam's Sons (128 pp.). It is a plan for an undivided administration of the railroads.

The University Extension Division of the University of Kansas is sponsor for an interesting study of *Armourdale: A City within a City*, by Manuel C. Elmer (Bulletin of the University of Kansas, Vol. 20, No. 12).

Fundamental Legal Conceptions and Other Legal Essays, by the late Wesley Newcomb Hohfeld, has been reprinted from the *Yale Review* by the Yale University Press (114 pp.).

Professor P. Orman Ray's article on "The World-Wide Woman Suffrage Movement" has been reprinted in pamphlet form from the *Journal of Comparative Legislation*.

A History of the Bankruptcy Law, by F. Rogers Noel (Washington, Potter and Co., 209 pp.), presents a historical account of the bankruptcy provision in the United States Constitution and of congressional legislation thereunder.

Two essays by Professor George Burton Adams, on "The British Empire and a League of Peace" and on "Federal Government: its Function and Method," have been published together in a small volume (Putnam's, 115 pp.).

RECENT PUBLICATIONS OF POLITICAL INTEREST

BOOKS AND PERIODICALS

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AMERICAN GOVERNMENT AND PUBLIC LAW

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